Submitted 2-45th Judge Davis.
Jany 13. 1875 —
= Affirmed —
Clifford
Dissents

SUPREME COURT OF THE UNITED STATES.

No. ~~7444~~ ~~486~~ 892

JAMES and SQUIRE WILLIAMS, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

FRANCIS & VALENTINE, PRINTERS, 517 Clay St., S. F.

~~Filed 5th October 1874~~

Filed 5th January 1876

SUPREME COURT OF THE UNITED STATES.

No. —.

THE UNITED STATES, APPELLEES,

VS.

JAMES AND SQUIRE WILLIAMS, APPELLANTS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

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JAMES and SQUIRE WILLIAMS, claimants, *vs.* THE UNITED STATES, defendant. } For the place named "Arroya de la Laguna."

2 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered that on this seventeenth day of February, Anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of James and Squire Williams for the place named "Arroyo de la Laguna," was presented and ordered to be filed and docketed with No. 42, and is as follows, to wit:

(Vide page 5 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

3 SAN FRANCISCO, *January* 11, 1854.

In case No. 42, James and Squire Williams, for the place named "Arroyo de la Laguna," the deposition of Cornelio Perez, a witness in behalf of the claimants taken before Commissioner R. Aug. Thompson was filed.

(Vide page 8 of this transcript.)

SAN FRANCISCO, *January* 12, 1854.

In the same case the deposition of Francisco Soria, a witness in behalf the claimants, taken before Commissioner R. Aug. Thompson, was filed.

(Vide page 11, of this transcript.)

SAN FRANCISCO, *October* 10, 1854.

Case No. 42 was ordered to be placed at the foot of the 2d class cases on the trial docket.

SAN FRANCISCO, *October* 30, 1854.

In the same case the deposition of Juan B. Alvarado, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

4 (Vide page 13 of this transcript.)

SAN FRANCISCO, *November* 3, 1854.

In the same case the deposition of Joseph L Majors, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

(Vide page 18 of this transcript.)

SAN FRANCISCO, *November* 14, 1854.

Case No. 42 was submitted under the rule of 21 March, 1854.

SAN FRANCISCO, *December* 26, 1854.

In the same case the counsel for the claimants moved to reinstate the case on the trial docket, and filed the following affidavit, with a memorandum annexed thereto:

(Vide page 47 of this transcript)

Which motion was taken under advisement by the Board.

SAN FRANCISCO, *January* 2, 1855.

In the same case Commissioner Alpheus Felch delivered the decision of the board upon the motion of the claimants counsel made heretofore, to wit: on the 26th of December last, granting the said motion.

Ordered that this case be placed at the foot of the 4th class cases on the trial docket.

SAN FRANCISCO, *February* 9, 1855.

In the same case the deposition of John Bidwell, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

(Vide page 20, of this transcript.)

SAN FRANCISCO, *February* 10, 1855.

In the same case the deposition of James Williams, a witness in behalf of the claimants taken before Commissioner Peter Lott, was filed.

(Vide page 21 of this transcript.)

SAN FRANCISCO, *February* 13, 1855.

In the same case the counsel for the claimants filed the following motion and affidavit, to wit:

(Vide page 49 of this transcript.)

SAN FRANCISCO, *February* 14, 1855.

In the same case the counsel for the claimants filed the following affidavit of James Williams, to wit:

(Vide page 27 of this transcript.)

SAN FRANCISCO, *February* 19, 1855.

In the same case the deposition of Hiram D. Scott, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

(Vide page 24 of this transcript.)

SAN FRANCISCO, *February* 20, 1855.

In the same case Commissioner Alpheus Felch delivered the decision of the board upon the motion heretofore filed, to wit: on the 13th inst, granting the same.

SAN FRANCISCO, *February* 26, 1855.

In the same case the counsel for the claimants filed the following

amended petition, in accordance with the leave granted by the Board on the 20th instant, to wit:

(Vide page 6 of this transcript.)

7 SAN FRANCISCO, *February* 27, 1855.

Case No 42 was submitted without argument and taken under advisement.

SAN FRANCISCO, *July* 10, 1855.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the board confirming the claim.

(Vide page 65 of this transcript.)

And the following order was made, to wit:

(Vide page 69 of this transcript.)

8 *Petition.*

To the Honorable the Board of Commissioners for settling private land claims in California:

The petition of James and Squire Williams, respectfully submits to your Honorable Board the accompanying grant and translation of the tract of land known as the Arroyo de la Laguna, situated on the sea coast in Branciforte County, which said grant was made to Gil Sanchez by Gov. Alvarado on the 12th June, 1840, by virtue of the colonization law of Mexico of the 18th August, 1824, and the instructions under said law dated November 21st, 1828.

Said grant was transferred by said Sanchez to James G. T. Dunleavy on 30th July, 1847, and by him transferred to your petitioners on 28th August, 1847, which said transfers are prayed to be made a part of this petition.

The quantity of land included in said grant is one league.

9 There is no conflicting claim to said grant as known to your petitioners.

All which is respectfully submitted to your Honorable Board for such action as justice and the nature of the case may require.

CROSBY & ROSE,
for petitioners.

Filed in office Feb'y 17th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Amended petition.

JAMES WILLIAMS AND THE HEIRS OF SQUIRE WILLIAMS, DECEASED,
vs.
THE UNITED STATES.

To the Honorable the Board of United States Land Commissioners to ascertain and settle the private land claims in the State of California:

The amended petition of James Williams and the heirs of
10 Squire Williams, deceased, by leave of the board for that purpose first had, respectfully shows that they claim as owners in fee a certain piece of land known as the "Rancho Arroyo de la Laguna," containing one square league and situate in the County of Santa Cruz in said State, and being bounded as follows:

On the south by the Pacific Ocean, east by a line running from a stake about twenty yards from the mouth of a stream known as the Arroyo de la Laguna, northerly along the said stream to the mountains, northerly by the mountains and westerly by the Arroyo de San Vicente, and containing in the said boundaries one league of land as aforesaid.

And the said claimants further show that a grant of the said tract of land was made by Governor Juan B. Alvarado, he then being Constitutional Governor of California, to one Gil Sanchez
11 on the 12th day of June, A. D. 1840, and that the said Sanchez immediately thereafter, and according to law, occupied and improved said land, and that the said Gil Sanchez did on the 30th day of July, A. D. 1847, convey in fee the said tract of land to James G. T. Dunleavy formerly of the said county, and that the said Dunleavy (together with his wife, Mary Ann Dunleavy) conveyed in fee the said land to the said James Williams and his brother, Squire Williams.

And the said petitioners urther show that the said Squire Williams died on the —— dayf of ————, A. D. 1843, unmarried and intestate, and leaving no issue, and that his heirs are, as far as now known, the said James Williams, Isaac Williams, John S. Williams, James Williams Miller, and ——— Smith, and others whose names cannot now be given, and are unknown.

And the said petitioners further show that in the due
12 course of administration on the estate of the said deceased, and by order of the probate court of the county aforesaid, the one undivided third part of all of interest of the said deceased in and to the said land on the 29th day of March, A. D. 1853, was sold to the highest bidder and was bid off by Edward L. Williams, and which the said interest was on the 5th day of July, A. D. 1853, conveyed by deed to the said Edward L. Williams by the Administrator of said estate and which said interest was afterwards, to wit: on the 30th day of January, A. D. 1854, conveyed by the said Edward L. to the said James Williams, and the said petitioners also knew that the said Isaac Williams did, on the —— day of ———, A. D. 1852, convey to the said James Williams, by deed in fee, all of his right in and to the said tract of land, which these petitioners say was the one undivided eighth part thereof.

13 And the said petitioners further show that they rely for a title on the said original grant and expediente, traced copies of which are herewith filed, and the said above-mentioned conveyances here shown, and such other documentary evidence as they may produce and upon the parol testimony now taken and that may be hereafter taken, in this case.

They further say that there is no conflicting claim in opposition to their claim to the said land.

Wherefore they pray that their said claim be confirmed to the said James Williams according to his interest as above shown, and to the heirs of the said Squire Williams, deceased.

D. S. GREGORY,
Attorney for claimants.

Filed in office Feb'ry 26th, 1855.

(Signed) GEO. FISHER, *Sec'y.*

14 *Deposition of Cornelio Perez.*

OFFICE OF THE BOARD OF U. S. LAND COMMISSIONERS, &C., &C.

SAN FRANCISCO, *January* 11, 1854.

On this day, before Commissioner R. Aug. Thompson, came Cornelio Perez, a witness in behalf of claimants, James and Squire Williams, case No. 42, who after being duly sworn, deposed as follows, his evidence being interpreted by the Secretary:

Present—Claimant's attorney and U. S. assistant law agent.

Witness states his name is Cornelio Perez, his age forty-three years, residence Santa Cruz, where he has lived since his birth.

Question by claimant's attorney. Do you know the rancho called Arroyo de la Laguna, if so, state where it is situated, and what you know of its boundaries?

Answer. I know said rancho: it is situated in the County of
15 Santa Cruz, about four leagues north of the town of the same name, and on the coast. It is bounded on one side by the Arroyo de la Laguna, and on another by the sea, on another by the Arroyo de San Vicente, and on the other by the Sierra.

Question by same. State what you know of the occupation, cultivation and improvement of said ranch, by Gil Sanchez, the original grantee; when it was first occupied by him, and in what manner.

Answer. Gil Sanchez, immediately after obtaining the grant, went upon the land with his laborers and built a wooden house on it and a corral, and enclosed a small piece of land which he cultivated in vegetables, etc.; he also, at the same time, placed on the ranch two bands of horses and about three hundred head of cattle. The house was generally inhabited by his servants and laborers, and he was frequently there himself for a few days, or a week
16 at a time, and I believe supported his family from the proceeds of the ranch. He continued to occupy it until the Indians stole all his horses, after which he removed a portion of his cattle, though he still had some remaining there when he sold it. One of the men who went in pursuit of the Indians when they stole the horses, was killed by them.

Question by same. State what you know of the occupation of said rancho by James and Squire Williams, the present claimants.

Answer. Soon after they bought it they went on the land and built a house, a saw mill, and enclosed a portion which they cultivated, and have continued to live on the land ever since.

CORNELIO his X mark. PEREZ.

Sworn to and subscribed before me, January 11, 1854.

R. AUG. THOMPSON, *Commissioner.*

17 Filed in office Jan. 11, 1854.

(Signed.) GEO. FISHER, *Sec'y.*

Dep. of Francisco Soria.

Case No. 42.

UNITED STATES LAND COMMISSION,
San Francisco, Jan. 12, 1854.

On this day, before Commissioner R. Aug. Thompson, came Francisco Soria, a witness on behalf of the claimants, James and Squire Williams, case No. 42, who, after being duly sworn, deposed as follows, his evidence being interpreted by the Secretary:

Present: Claimants' att'y and U. S. Asst. Law Agent.

Witness states his name is Francisco Soria, his age is fifty-five years, and resides in the County of Santa Cruz, where he has lived ever since the year 1823.

18 Question by claimants' att'y. Do you know the rancho called Arroyo de la Laguna; if so, state what you know of its occupation, cultivation or improvement, at what time, by whom, and in what manner it has been occupied.

Answer. I know said rancho, it is situated in the County of Santa Cruz, about four leagues up the coast from the town of Santa Cruz. It was first occupied by Gil Sanchez, in the latter part of the year 1840, or the commencement of the year 1841.

He went to Monterey with his petition for the grant and returned a short time afterwards with the grant, and immediately on his return went into the occupation of the ranch.

He built a wooden house about fifteen varas in length, corrals, and placed on it about two hundred head of cattle and two bands of horses.

The house was generally inhabited by his servants; his family did not reside there; he was frequently back and forth himself.

19 He had also a small portion of the land enclosed and in cultivation. I do not recollect how long he continued to occupy it.

Question by same. Who occupied said ranch after Gil Sanchez and how long has it been occupied by the second occupants?

Answer. It was then occupied by Mr. James Williams., Gil Sanchez sold it to Williams in 1847, immediately after which Williams went into possession and built one large house, a small one, and a saw mill. Sanchez continued to occupy it until he sold to Williams.

Question by U. S. Ass't Law Agent.

Did Gil Sanchez ever reside on said ranch?

Answer. He lived on the ranch but was back and forth to where his family resided. He was there a month at a time, probably, occasionally.

20 Question by same. Did Sanchez keep his servants and cattle on the ranch until he sold to Williams?

Answer. He did with the exception of a short time during which his servants had been driven off by the Indians. This was, I believe, in the same year in which the land was sold.

FRANCO SORIA.

Sworn to and subscribed before me Jan. 12th, 1854.

R. AUG. THOMPSON, *Com'r.*

Filed in office Jan. 12th, 1854.

(Signed.) GEO. FISHER, *Sec'y.*

21 *Deposition of Juan B. Alvarado.*

UNITED STATES OF AMERICA, } ss
STATE OF CALIFORNIA. }

SAN FRANCISCO, *October* 27, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State, Juan B. Alvarado, a witness on behalf of the claimants, James Williams and Squire Williams, in case No. 42 on the docket of said board, and said witness being sworn deposed in Spanish, which is interpreted to said board as follows:

The U. S. Law Agent is present.

Questions by Mr. Gregory for Claimants.

1. Question. What is your name, age and residence?

Answer. My name is Juan B. Alvarado; my age 45 years; my residence in Contra Costa County, California.

2. Question. Are you acquainted with the place called Arroyo de la Laguna, if yea, state where it is situated, and what you

22 know about its being granted to any one?

Answer. I am not acquainted with said place. I believe it is situated in Santa Cruz County. I remember that I granted the place to Gil Sanchez about 1839 or 1840.

3. Question. Look at the document now shown to you marked "A. P. L." exhibited in this deposition, and heretofore filed in this case, purporting to be a traced copy of the original espediente in the office of the U. S. Surveyor General for the State of California. and state whether you have examined said original document in said office, and if yea, whether you are acquainted with the handwriting of the persons whose signatures appear thereto written, and if yea, state your means of knowledge and whether their said signatures to said original document are genuine?

Answer. I have examined said original document in said
23 surveyor general's office, and I am acquainted with the rubrics of Nicolas Gutierrez and Angel Ramirez, and with the signatures of Gil Sanchez, Nicolas Gutierrez, Manuel Maria Maldonado, Santiago Watson, Bonifacio de Madariaga, José Aristrada, Juan Gonzalez, José Rafael Gonzalez, Manuel Jimeno and José Z. Fernandez.

I have seen them all write and sign their names and their signatures respectively; wherever they occur in said original document are genuine, and my own signature thereon is also genuine, written by me at the date it bears, and the above mentioned rubrics are also genuine.

4. Question. State what title the original grantee, Gil Sanchez, acquired under said original papers by the laws, usages and customs of Mexico and California at the time said papers bear date.

4th Question objected to by U. S. Law Agent, as attempt-
24 ing to prove matter of law and construction of grant.

Answer. He acquired a perfect title in ownership.

5. Question. State if any other grant was given by you in this case than that contained in said original documents which you have before spoken of in this deposition.

Answer. I do not remember to have given any other. This is a title. There might have issued another document to the grantee upon this concession, though it was not necessary.

6. Q estion. Look at the document now shown you marked "B. P. L." exhibited to this deposition and heretofore filed in this case and state whether you are acquainted with the signatures thereto written; if yea, state your means of knowledge and whether said signatures are genuine?

Answer. I am acquainted with the signature of Gil Sanchez.
25 I have seen him write and this is his genuine signature.

Cross-examined by U. S. Law Agent.

1. Question. Are you a lawyer by profession?

Answer. No, I never pretended to be a lawyer by profession.

2. Question. How then do you know what constitutes a perfect title to land under the Mexican law?

Answer. Because I have studied the laws relating to the granting of lands particularly. Not as a professional lawyer, but as an individual, and I am acquainted with the practice relative to grants of land.

3. Question. In what books did you study those laws; and if not in books how did you inform yourself?

26 Answer. In none. I have studied them in manuscript copies of the colonization laws, authentic copies sent by the political chief to the House of Deputies, of which I was a secretary. The same laws of 1824 and regulations of 1828, which are familiar to this Commission. I have also seen some other laws to which the fourth article of the regulations of 1828 refer, and I have seen these laws embraced in the printed collection of Mexican laws.

4. Question. Did you learn what would make a perfect title under the Mexican law in any other way than by an examination of the colonization law of 1824, and said regulations of 1828; if yea, in what other book or manuscript did you learn it?

27 Answer. My knowledge of the practice of the former Governors, and my own practice as Governor, enabled me to inform myself respecting the land titles in California. I remember a law of 1813, of the Spanish Cortes, which applied to this subject, and I do not now remember any others applicable to this subject. My opinion of titles is derived from these sources.

Re-examined by claimant's counsel.

1. Question. How long have you lived in California, and what offices have you held under the Mexican Government?

Answer. I have lived here all my life. I have held many employments under the Mexican Government. I will name the principal ones. I was in the commissariat, Secretary of the Territorial Deputation, and Governor and political chief of California. I was a colonel of the army, and a delegate to the Congress of Mexico.

28 2. Question. Was you one of the persons who got up the insurrection which drove Micheltorena out of the country?

Answer. I was not. I was one of those who contributed to his leaving.

3. Question. In what manner?

Answer. By advising him to leave and by fighting his soldiers.

4. Question. Was not your occupation about that time more military than civil?

Answer. In those times my occupation was more military than civil.

JUAN B. ALVARADO.

Subscribed and sworn to before me this 27th day of October, 1854.

ALPHEUS FELCH, *Commissioner.*

Filed in office October 30, 1854.

(Signed.) GEO. FISHER, *Sec'y.*

29 *Deposition of Joseph L. Majors.*

UNITED STATES OF AMERICA, } ss
STATE OF CALIFORNIA. }

SAN FRANCISCO, *November* 1, 1854.

This day came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. Land Commissioners in said State, Joseph L. Majors, a witness on behalf of the claimants, James and Squire Williams, in case No. 42, on the docket of said Board, and said witness being duly sworn, deposed as follows:

The U. S. Law Agent is present.

Questions by D. S. Gregory for claimants.

1. Question. What is your name, age, and residence?

Answer. My name is Joseph L. Majors, my age, 49 years, my residence in Santa Cruz County, California.

2. Question. Look at the document now shown you marked "A. P. L," Exhibit to this deposition filed in this case, and
30 state whether you saw James G. T. Dunleavy execute the instrument therein by signing his name thereto.

Answer. I saw said Dunleavy sign his name as it appears here; it was done in Santa Cruz in my presence. After he signed his name he went out to get the witness, but I did not do it, and I am well acquainted with Judge William Blackburn's signature, and his signature under the other names on this document is genuine.

J. L. MAJORS.

Subscribed and sworn to before me, on this 1st day of November, A. D. 1854.

PETER LOTT, *Commissioner.*

Filed in office November 3, 1854.

(Signed.) GEO. FISHER, *Secretary.*

31 *Deposition of John Bidwell.*

UNITED STATES OF AMERICA } *ss.*
STATE OF CALIFORNIA. }

SAN FRANCISCO, 7, *February* 1855.

This day came before Peter Lott, Commissioner for taking testimony before the Board of U. S. Land Commission, John Bidwell, a witness for claimants in case No. 42, James Williams and Squire Williams, and said witness being sworn deposed and says as follows:

The U. S. Law Agent is present.

Questions by claimant's attorney.

1. Question. What is your name, age and place of residence?

Answer. My name is John Bidwell, my age 35 years, and my residence Butte County, California.

2. Question. Please state whether or not you was acquainted with Squire Williams, John S. Williams, James Williams and
32 Isaac Williams. If yea; when and where did you know them?

Answer. I was well acquainted with the four persons named, in California, from the year 1843 to 1848 and 1849. I met them often and had frequent business transactions with them. I always understood from their own conversation that they were brothers and they were known as brothers throughout this country. The said John S. Williams and Squire Williams now live in Santa Cruz County, California, and I do not know where the said Isaac Williams resides.

J. BIDWELL.

Sworn to and subscribed before me this 7th day of February, A. D. 1855.

PETER LOTT, *Commissioner.*

Filed in office Feb. 9, 1855.

(Signed.) GEO. FISHER, *Sec'y.*

33 *Deposition of James Williams.*

UNITED STATES OF AMERICA, } ss.
State of California. }

SAN FRANCISCO, *February* 10, 1855.

This day came before Peter Lott, Commissioner for taking testimony to be used before the U. S. Land Commission in said State, James Williams, a witness in case 42, wherein James and Squire Williams are claimants, and said witness being sworn, testified as follows:

The U. S. Law Agent is present and protests against the witness giving his testimony, because he is a party of record and in interest in this case.

Questions by Mr. Gregory for claimants.

1. Question. What is your name, age and residence?

Answer. My name is James Williams, my age 40 years,
34 my residence in Santa Cruz County, California?

2. Question. Were you acquainted with Squire Williams, one of the original claimants in this case; if yea, how long did you know him, and if he is still living?

Answer. The said Squire Williams was my younger brother. I raised him from his infancy, and knew him till he died on Yuba River, in this State, in July, 1848. There were four brothers of us who came from Cape Gerardiau County, Missouri, (where we were all born) to California in the year 1843.

3. Question. State whether said Squire Williams was ever married, and what heirs he left at his death?

Answer. He was never married, and when he died there sur-

vived him at the time of his death, his brothers, Ellison Wil-
35 liams, William Williams and Benjamin F. Williams, in the State of Missouri, and James Williams, (myself) John S. Williams and Isaac Williams, who were living in California when said Squire died. Said John S. Williams died in California in 1849, leaving a widow, Louisa, (since married to Lindsey Carson) and one son, whose name is John Williams, and then there were two sisters, Mahala Smith and Sarah Miller, living in Missouri, and also several children (whose names and number I cannot tell) of two deceased sisters, named Matilda Randals and Martha Ellison, they both left children in Missouri, but I cannot tell their names nor how many there are. Our parents were both dead before said Squire died. This is as far as my knowledge of the family extends.
36 The knowledge I have of those in Missouri is derived through our family correspondence. I have not seen most of them for some 18 years.

4. Question. State what interest you have in this claim?

Answer. I owned the land claimed in this case in partnership with my brother Squire, now deceased; we each had an undivided half interest in said land. Since said Squire died one-third of his interest was sold by his administrator, and I purchased it of one Edward L. Williams, of Monterey, who bought at the administrator's sale.

I now claim my original one-half and this one-sixth of the whole, which I thus purchased, and the only interest I have besides this is a wish to see said Squire's remaining part fairly distributed among all his proper heirs.

37 I decline to cross examine.

J. H. McKUNE,
U. S. Law Agent.
JAMES WILLIAMS.

Subscribed and sworn to before me on this 10th day of February, A. D. 1855.

PETER LOTT,
Commissioner.

Filed in office Feb. 10, 1855.

(Signed.) GEO. FISHER, *Sec'y.*

38 *Deposition of Hiram D. Scott.*

UNITED STATES OF AMERICA, } ss
STATE OF CALIFORNIA. }

SAN FRANCISCO, *February* 14, 1855.

This day came before Peter Lott, Commissioner for taking testimony to be used before the board of U. S. Land Commission, in

said State, Hiram D. Scott, a witness on behalf of the claimants, James Williams and Squire Williams, in case No. 42 on the docket of said board, and said witness being sworn, deposed as follows:

The U. S. Associate Law Agent is present.

Questions by Mr. Gregory for Claimants.

1. Question. What is your name, age and residence?

Answer. My name is Hiram D. Scott, my age is thirty-one years, and I reside in Santa Cruz County, California.

2. Question. Do you know the tract of land situate in said Santa Cruz County, called Rancho de la Laguna, and formerly owned by Gil Sanchez? If yea, state the boundaries of said tract
39 of land and the quantity of land in said boundaries, and state your means of knowledge?

Answer. I do know said tract of land very well, and have been over it, I suppose a thousand times, in passing from my ranch to Santa Cruz. I also worked in said ranch in the years 1847 and 1848, in the employ of James Williams. It is bounded on the east by the Arroyo de la Laguna, which separates it on that side from Jose Bolcoff's land.

On the south it is bounded by the sea. On the west by the San Vicente creek, as it is called in Spanish, but we Americans call it Blass creek.

This creek is about a league up the coast from the Arroyo de la Laguna, and runs from the mountains to the sea.

It separates it on that side from Blass Escamilla's ranch; on the northerly side it is bounded, as I always understood it, by the mountains about a league from the coast. I think there is not a league in these boundaries.

My knowledge of the land and its bounderies are derived
40 from having been so often on it, and working on it, and also from hearing Mr. Williams and others of that neighborhood speak of it.

3. Question. State whether or not the said boundaries are notable objects, and whether or not said objects are generally known in the neighborhood where the land is situate as being the boundaries of the said Rancho de la Laguna?

Answer. The said boundaries are notable objects and are very easily to be traced. They are known as the boundaries of said Rancho in that neighborhood and I never heard it disputed.

4. Question. Look upon document now shown to you marked "A. P. L." as an Exhibit to this deposition, and say whether or not the diseño on the seventh page thereof is a correct representation of the said Ranch and of its boundaries?

Answer. It is correct as much so as I could draw it. It
41 represents very well the ranch and its boundaries.

5. Question. State precisely where the line is on the easterly side, and whether or not there is any artificial object placed there to designate a boundary?

Answer. On the east side of the creek Arroyo de la Laguna is placed a stake to designate the southeast corner of the Rancho. It is from ten to twenty yards from the east side of said creek. I do not know who put it there, but it has been there ever since I knew the Ranch, and I always understood it to be the commencing boundary of said Ranch.

HIRAM D. SCOTT.

Subscribed and sworn to before me on this 14th day of February, A. D. 1855.

PETER LOTT, *Com'r.*

Filed in office Feb. 19, 1855.

(Signed.) GEO. FISHER, *Sec'y.*

42 *Affidavit of James Williams.*

JAMES WILLIAMS and SQUIRE WILLIAMS,
vs.
THE UNITED STATES.

Before the Board of United States Land Commissioners to ascertain and settle the private land claims in the State of California.

STATE OF CALIFORNIA,
San Francisco County, ss:

James Williams being by me duly sworn, deposes and says on oath that he is one of the claimants in the above entitled claim, and that the other of said claimants, Squire Williams, who was a brother of this deponent, died on the Yuba River in the now State of California, in the month of July, A. D. 1848.

Deponent further says that the said Squire Williams was never married, and when he died there survived him our brothers, Ellison Williams, William Williams, Benjamin F. Williams, and
43 myself, James Williams, John S. Williams and Isaac Williams. Said John S. Williams died in California, A. D. 1849, leaving a widow, Louisa, (since married to Lindsay Carson) and one son, whose name is John Williams. There were then living in Missouri our two sisters, Mahala Smith and Sarah Miller, and also several children (whose names I do not know) of two deceased sisters named Matilda Randals and Martha Ellison. These said sisters both left children in Missouri, and I cannot tell their names nor how many there were. Deponent says that the parents of the said Squire Williams both died before his, the said Squire's decease, and the above contains the full extent of his knowledge of the family of the said Squire. And deponent further says that he has made frequent and diligent search for some person by whom he could prove who the heirs of the said Squire Williams are,
44 and that after such continued and diligent search, he has been unable to ascertain or procure the attendance of any per-

son by whom he could prove all of the above facts, tending to show who are the heirs of the said Squire Williams, deceased.

JAMES WILLIAMS.

Filed in office Feb'ry 14, 1855.

(Signed) GEO. FISHER, *Sec'y.*

Subscribed and sworn to before me this 10th day of February, A. D. 1855.

PETER LOTT, *Commissioner.*

1.—S. D. K.

Espediente promovido por el C. Gil Sanchez en pretencion del parage llamado "Arroyo de la Laguna."

120.

A. P. L.

Exhibit to the Dep. of Juan B. Alvarado.

45 2.—S. D. K.

Sello tercero, dos reales; habilitado por la administracion de la aduana maritima del puerto de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

ANGEL RAMIREZ.

GUTIERREZ.

SR. GEFE SUPERIOR POLITICO: El C. Gil Sanchez, Rejidor del I. A. de esta Capital, ante V. S. aparece y dice que teniendo posibilidad para fomentar el terreno conocido de la costa de Santa Cruz con el nombre del "Arroyo de la Laguna," segun el diseño que adjunto acompaña, pide se le conceda si lo allase de justicia para cultivarlo y sosten de su familia con honradez. Por tanto á V. S. suplica se sirva decretar á favor del que suplica, jurando no ser de malicia y lo necesario etc.

Monterey Octubre 14 de 1836.

GIL SANCHEZ.

3.—S. D. K.

MONTEREY *Octubre* 15 *de* 1836. De conformidad con las leyes y reglamentos de la materia, informe el ayuntamiento de esta Capital si el interesado en esta instancia obtiene los requisitos prevenidos para ser atendido en su solicitud, si el terreno que pretende está comprendido en las veinte leguas limitrofes y diez litorales que espresa la ley de 18 de Agosto de 1824, si es de regadío, temporal ó abrevadero, si pertenece á la propiedad de algun particular, corporacion ó pueblo; con todo lo demas que crea conducente á

46

ilustrar la materia. Evacuadas estas diligencias pase el espediente al administrador de Santa Cruz para que esponga lo que le ocurra sobre el particular. El Sr. D. Nicolas, Teniente Coronel del ejérci-

to, Comandante General Inspector y Gefe Político interino de la Alta California, así lo decretó, mandó y firmó de que doy fé.

NICOLAS GUTIERREZ.

MANUEL MA. GONZALEZ, *Srio. Into.*

Monterey, Octe. 22 de 1836.

En sesion de este dia, se dió cuenta y se mandó pasar á la comision del Ramo.

HARTNELL.

JOSE MARIA MALDONADO, *Srio.*

Ilustrisimo Ayuntamiento.

La comission de Colonizacion y terrenos á quien se pasó el espe-

4.—S. D. K.

diente que

5.—S. D, K.

Sello tercero, dos reales; habilitado por la administracion maritima del puerto de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

ANGEL RAMIREZ.

GUTIERREZ,

forma la solicitud del C. Gil Perez, Regidor de este I. A., al Sr. Gefe Político, para que se le conceda el terreno nombrado Arroyo de la Laguna, situado en la costa de Santa Cruz y perteneciente á dicho pueblo, ha tomado los informes necesarios para el efecto y con arreglo al supor. decreto marginal espone: que el interesado obtiene los requisitos prevenidos para ser atendido en su solicitud; que el terreno que pretende no està comprendido en las veinte leguas limitrofes, ni diez literales que espresa la ley de 18 de Agosto de 1824, dicho terreno es de temporal y regadio y en la actualidad no lo ocupa el pueblo de Santa Cruz. Por lo espuesto la comision opina puede concederce y sugeta á la deliberacion de este I. C. la siguiente proposicion.

48 Puede concederse al C. Gil Sanchez el terreno nombrado Arroyo de la Laguna que solicita del Sr. Gefe Politico en escrito de 14 de Octubre del presente año previo el informe del ma-

6.—S. D. K.

yordomo de Santa Cruz.

Monterey, Nobre. 10 de 1836.

SANTIAGO WILSON.

BONIFACIO DE MADARIAGA.

MONTEREY, *Noviembre* 13 *de* 1836.

En sesion de este dia aprobó el I. A. la antecedente proposicion para el espediente al mayordomo de Santa Cruz, en cumplimiento

del Supr. Decreto de 18 de Octubre proximo pasado.

JOSE R. ESTRADA.

Por enfermedad del secretario Bonifacio de Madariaga,

PABLO DE FIGUEROA.

Diciembre 12 de 1836.

En virtud del espediente que antecede, en que se pide informe del sitio que solicita el C. Gil Sanchez; digo que es terreno valdio y no tiene ingerencia con los bienes de este pueblo, no hay embaraso alguno para que se verifique su consecion.

JUAN GONZALES.

49 7.—S. D. K.

Sello tercero, dos reales.

Habilitado por la administracion de la aduana maritima del puerto de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

ANGEL RAMIREZ.

GUTIEREZ.

MONTEREY, *Febrero* 20 *de* 1839.

Vista la peticion con que da principio este espediente el informe del I. A. de Monterey, del administrador de Santa Cruz, con todo lo demas que se tuvo presente y ver convino de conformidad con las leyes y reglamentos de la materia, se declara á Don Gil Sanchez, dueño en propiedad, del terreno conocido con el nombre del Arroyo de la Laguna tomando por linderos desde el Arroyo de San Vicente hasta el de La Laguna, como se manifiesta en el diseño que corre agregado al espediente.

Librese el despacho correspondiente, tomese razon en el libro respectivo y dirijase á la Exma. Junta Departamental para su aprovacion.

50 Así yo el C. Juan B. Alv rado, Gobernador interino de las Calfornias, lo decreté, mandé y firmé.

ALVARADO.

En la fecha enterado el C. Gil Sanchez del decreto que antecede dijo que estaba conforme con su contenido y lo firmó.

GIL SANCHEZ.

8.—S. D. K.

La comision de agricultura encargada de dictaminar sobre la consecion del terreno conocido con el nombre de Arroyo de la Laguna en la posecion de Don Gil Sanchez, en vista de los trámites corridos y aversele consedido en virtud de ser ciudadano mexicano por nacimiento y casado con una hija de este Departamento, no ha vasilado para creer merecer la aprovacion por lo que pone á la deliberacion de V. E. los artículos siguientes:

Art. 1.° Se aprueva la consecion echa por el Sr. D. Nicolas Gutierrez y Gefe Superior Político interino de este departamento del sitio Arroyo de la Laguna, en la persona de Don Gil Sanchez.

51 A lo 2.° para que el interesado no caresca de propiedad.

Se servirá el Gobierno espedirle copia de esta superior aprobacion, haciendo se le remita al interesado.

Monterey, Mayo 12 de 1840.

JOSE RAFAEL GONZALES.

9.—S. D. K.

Secretaria de la Junta Departamental de las Californias.

MONTEREY, 19 *de Mayo de* 1840.

En sesion de este dia aprobó la E. Junta Departamental el dictamen anterior reformando el 2.° artículo en los términos siguientes: Artlo. 2.° Que el presente espediente vuelva al Exmo. Sr. Gobernador para los fines que corresponde.

MANL. JIMENO, *Presdte.*

JOSE Z. FERNANDEZ, *Srio.*

MONTEREY, 12 *de Junio de* 1840.

En vista de la aprobacion otorgada en diez y nueve de Mayo pro. pdo. por la E. Junta Departamental, librese testimonio de ella
52 á la parte de Don Gil Sanchez, en confirmacion del terreno nombrado Arroyo de la Laguna, que obtuvo en veinte de Fbro. del año pro. pdo. El Sr. D. Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias, así lo proveyó y firmó de que doy fé.

ALVARADO.

Office of the Surveyor General of the United States for California. I, Samuel D. King, Surveyor General of the United States for the State of California and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican Territory, or Department of Upper California, do hereby certify that the nine preceeding and hereunto annexed pages of tracing paper numbered from one to nine inclusive, and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents now on file and forming part of the said archives in my office.

53 In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of [SEAL.] office) at the City of San Francisco, Cal., this 6th day of February, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal'a.

Filed in office Febr'y 17, 1852.

GEO. FISHER, *Sec'y.*

C.—Translation of title papers, &c.

Authorized by the administration of the Maritime Custom House of the port of Monterey, of Alta California, for the years 1836 and 1837.

GUTIERREZ. ANGEL RAMIREZ,
Sen. Superior Political Chief.

54 The Citizen Gil Sanchez, Alderman of the most illustrious Ayuntamiento of this capital, appears before your Excellency, and says that having the means of improving the land known on the coast of Santa Cruz, by the name of Arroyo de la Laguna, according to the annexed and accompanying map, asks that it may be granted him if it be found to be according to justice, in order to cultivate and sustain his family with honor. Therefore he prays your Excellency to decree in favor of this petition, swearing that he does not act from malice, but that it is necessary, etc.

MONTEREY, *October* 4, 1836.

GIL SANCHEZ.

MONTEREY, *October* 15, 1836.

In conformity with the laws and regulations upon the matter, let the Most Illustrious Ayuntamiento of this capital, give information, whether the person interested in this petition has the prescribed requisites to be attended to in this application, whether the
55 land petitioned for is included in the twenty border or ten littoral leagues as mentioned in the law of the 18th of August, 1824, whether it is irrigable, temporal, or has watering places for cattle, whether it belongs to any particular person, corporation or pueblo, with everything else that will conduce to illustrate the matter.

These steps having been taken, let the record of proceedings pass to the administrator of Santa Cruz, that he may report what occurs to him in this particular. The Sen. Don Nicholas Gutierrez, Lieut. Col. of the army, Commandante General, Inspector and Political Chief ad interim of Alta California, thus decree, command and sign, to which I certify.

NICHOLAS GUTIERREZ.
MANUEL MA. GONZALES,
Secretary ad interim.

MONTEREY, *Oct.* 22, 1846.

In session of this day it was reported and ordered to pass to the Commission of that department.

56 JOSÉ MARIA MALDONADO,
Secretary.

HARTNELL.

The Most Illustrious Ayuntamiento.

The committee on colonization and lands to which was passed the record of proceedings which followed upon the application of the Citizen Gil Sanchez, Alderman of this Most Illustrious Ayuntamiento to the Sen. Political Chief to grant him the land named Arroyo de la Laguna, on the coast of Santa Cruz, and belonging to said Pueblo, has made the necessary enquiries for the purpose and according to what is contained in the Superior Marginal decree, re-

ports that the interested person has the necessary requisites to be attended to in the matter of his petition, that the land which he asks is not comprehended within the 20 border leagues, but it is in the 10 littoral leagues as set forth in the law of the 18th Aug. 1824, said land is temporal and irrigable, and not actually occupied by the Pueblo of Sta Cruz. By this expose the commission thinks
57 it may be granted, and suggests to the Most Illustrious Ayuntamiento the following proposition:

That there may be granted to the Citizen Gil Sanchez, the land named Arroyo de la Laguna, which he asks of the Sor. Political Chief, in writing under date of the 14th Oct. of the present year, with the previous information of the Mayordomo, of Sta Cruz.

Monterey, Nov. 10, 1836.

BONIFACIO DE MADARIAGA,
SANTIAGO WILSON.

MONTEREY, *Nov.* 13, 1846.

In session on this day, the Most Illustrious Ayuntamiento approved the proposition and agreed that the record of proceedings shall pass to the Superintendent of Sta Cruz, in fulfillment of the Superior decree of the 15th Oct. last past.

JOSÉ R. ESTRADA.

58 On account of the indisposition of the secretary.

BONIFACIO DE MADARIAGA.

Pueblo of Figueroa, Dec. 12, 1836.

By virtue of the preceeding record of proceedings in which information is asked respecting the league which the citizen Gil Sanchez solicits, I say that the land is vacant, and has no connexion with the property of this Pueblo, nor is there any impediment to the concession being made to him.

JUAN GONZALEZ.

MONTEREY, *February* 20, 1839.

Having seen the petition with this record of proceeding commences the information of the Most Illustrious Ayuntamiento of Monterey, that of the administrator of Santa Cruz, with all the rest that has been presented, and seeing it would be proper, in conformity with the laws and regulations in regard to the matter,
59 Don Gil Sanchez is declared owner in fee of the land known by the name of the Arroyo de la Laguna, taking for its boundaries from the Arroyo de San Vicente as far as that of the Laguna, as is shown in the design which is attached to this record of proceedings.

Let the corresponding title be delivered, let an entry be made of it in the proper book and forwarded to the Most Excellent Departmental Assembly, for its approval.

Thus I, the citizen, Juan B. Alvarado, Governor ad interim of the Californias, have decreed, ordered and signed.

ALVARADO.

On this day the citizen Gil Sanchez was informed of the preceeding decree, and said it was in conformity with its contents.

I sign it.

GIL SANCHEZ.

60 The committee on agriculture charged with the decision upon the granting of the land known by the name of the Arroyo de la Laguna in the case of Don Gil Sanchez, in view of the steps taken and the concession made by virtue of his being a Mexican citizen by birth and married to a native of this department, does not hesitate to believe that he merits the approbation, wherefore it presents for the deliberation of this honorable committee the following articles:

Art. 1. That it approves the concession made by Sr. Don Nicolas Gutierrez, Superior Political Chief ad interim of the department of the place called Arroyo de la Laguna in the person of Don Gil Sanchez.

Art. 2. That in order the interested person may not fail of his property the government will be pleased to issue a copia of this superior approbation, causing it to be transmitted to the interested person.

61 Monterey, May 12th, 1840.

JOSÉ RAFAEL GONZALES.

Office of the Departmental Assembly of the Californias:

MONTEREY, *May* 12th, 1840.

In session this day the most Excellent Departmental Junta approved the preceding decision altering the 2d article in the following terms:

Article 2d, That the preceding record of proceedings be returned to his Excellency the Governor for the corresponding ends.

MANL. JIMENO, *President.*

JOSE L. FERNANDEZ, *Secretary.*

MONTEREY, 12th *June*, 1840.

In view of the approbation granted on the 19th day of May last past, by the most Excellent Departmental Assembly.

62 Let a testimony of it be delivered to Don Gil Sanchez, in confirmation of the land named Arroyo de la Laguna, which he obtained on the 20th of February of the year last past. The Sen. Don Juan B. Alvarado, Constitutional Gov. of the Department of the Californias, provided and signed it, to which I certify.

ALVARADO.

Filed in office *Feb.* 17, 1852.

(Signed) GEO. FISHER, Sec'y.

D.—B. P. L. Exhibit to depo. of J. B. Alvarado.
Conveyance.

Know all men by these presents, that I, Gil Sanchez, of the jurisdiction of Monterey, Upper California, for and in consideration of three hundred dollars to me in hand paid by James G. T. Dunleavy,
of Santa Cruz, said California, the receipt of which I hereby
63 acknowledge, have this thirtieth day of July, one thousand eight hundred and forty-seven, and do by these presents grant, bargain, sell and convey unto the said James G. T. Dunleavy, the following tract of land with all its privileges and appurtenances, lying and being on the northern boundary of the land owned by Jose Bolcoff, and known by the name of the Arroyo de la Laguna, being on the coast north of Santa Cruz, and between this and point Año Nuevo. All of which will be more fully explained and understood by a reference to the original grant and title deed which exist in the archives of this territory of California, a copy of which I now deliver with this deed of transfer to the said James G. T. Dunleavy, the same having been granted to me by the competent Mexican authorities, and approved of by the Departmental Assembly of California.

Now I, Gil Sanchez, for myself, my heirs and assigns, do
64 hereby covenant and agree with said James G. T. Dunleavy, to warrant and defend all and singular the aforesaid tract of land with all its privileges and appurtenances thereto, in any wise belonging unto the said James G. T. Dunleavy, his heirs and assigns, against the demands or claims of all persons whatsoever. In witness whereof, I have hereunto set my hand and affixed my seal this thirtieth day of July, in the year of our Lord one thousand eight hundred and forty-seven.

GIL SANCHEZ. [SELLO.]

In presence of JOSE ARANA,
JAS. L. TABER.

This instrument of writing was signed and delivered in this office and in my presence, and a record of the same is deposited in this Court this thirtieth day of July, in the year of our Lord, one thousand eight hundred and forty-seven.

WALTER COTTON,
Alcalde of Monterey.

65 WILLIAM R. GARNER, [SEAL]
Secretary.

Filed in office Feb. 17, 1852.
(Signed.) GEO. FISHER, *Sec'y.*

A. P. L.—Exhibit to deposition of J. L. Majors, "E."
Conveyance.

This Indenture made and concluded this twenty-eighth day of August, in the year of our Lord one thousand eight hundred and forty-seven,

Between James G. T. Dunleavy, of the jurisdiction of Santa Cruz, of the first part, and James Williams and Squire Williams of the jurisdiction of Santa Cruz of the second part.

Witnesseth. That the said James T. Dunleavy of the first part as aforesaid, for and in consideration of the sum of eight hundred dollars, to me in hand paid, the receipt whereof is hereby ac-
66 knowledged, hath sold, bargained, transferred and conveyed, and by these presents doth hereby sell, bargain, transfer and convey unto the said James Williams and Squire Williams, of the second part, as aforesaid, all of that certain tract of land lying and being situated on the northern boundary of the land owned by José Bolcoff, and known by the name of the "Arroyo de la Laguna," being on the ——— north of Santa Cruz, and between this and Point Año Nuevo, all of which will be more fully explained and understood by a reference to the original grant and title deed which exists in the archives of this "Territory of California," a copy of which I now deliver with this deed of transfer to the said James Williams and Squire Williams, the same having been granted to one Gil Sanchez (now at this date in the jurisdiction of Monterey) by the competent Mexican authorities, and approved of by
67 the Departmental Assembly of California, and by said Gil Sanchez, sold and transferred to me on the thirtieth day of July, in the year of our Lord one thousand eight hundred and forty-seven, which deed of transfer from said Gil Sanchez to me as aforesaid, accompanies this, and of transfer from me to James Williams and Squire Williams, of the second part as aforesaid, together with all and singular the rights, privileges, advantages, hereditaments and appurtenances whatever, as fully as the same was held and possessed by me, unto the said James Williams and Squire Williams, as aforesaid, their heirs and assigns forever.

In witness whereof, I, together with Mary Ann Dunleavy, my lawful wife, hereunto set my hand and subscribed my name this 28th day of August, A. D. 1847, in the mission of Santa Cruz.

JAMES G. T. DUNLEAVY. [SEAL.]
MARY ANN DUNLEAVY. [SEAL.]

Witness present at the
signing and delivery.
GEORGE WILLIAMS,
HENRY SPEEL,
WILLIAM BARTON.

Acknowledged before me, W. Blackburn, Alcalde for this
68 District, this 28th day of August, A. D. 1847.

W. BLACKBURN,
Alcalde of Santa Cruz.

Filed in office Feb. 17, 1852.

(Signed.) GEO. FISHER, *Sec'y.*

Affidavit of claimant to restore case to docket.

U. S. LAND COMMISSION FOR CALIFORNIA. No. 42. JAMES WILLIAMS *et al* claimants.

Personally appeared V. E. Howard, who being duly sworn makes oath and says, that this case was submitted under the rule of a former session of this board for want of an appearance.

That Mr. Gregory, the attorney of record, applied to affiant to examine said case with a case to an appearance in the same; that affiant read the papers in said case with Mr. Gregory, and
69 expressed to him the proper course in his opinion to be pursued in the same; that said Gregory has to see said affiant again, or leave him a memorandum in the case until which times affiant did not consider himself retained as counsel for the claim.

Affiant heard nothing further from Mr. Gregory, who shortly after left town before the case was called.

Affiant further states that supposing Mr. Gregory had concluded not to retain him he did not appear in the case when it was called.

That sometime after the case was submitted, Mr. Gregory returned to Town and informed affiant that he had left a memorandum at affiant's office and considered affiant retained in the case.

The memorandum is herewith filed, but being left with one of the clerks in the office it was never handed to affiant and never came to his notice until after the case was submitted, and subsequent
70 to the return of Mr. Gregory to San Francisco.

Affiant states that he believes this to be a meritorious claim, but it is his opinion it is necessary to open the case, amend the petition and present further proof as to the heirship and of some of the claimants and also as to the boundaries of the grant.

V. E. HOWARD.

December, 26th, 1854.

Subscribed and sworn to before me.

ALPHEUS FELCH.
Commissioner.

JAMES & SQUIRE WILLIAMS
Claimants,
vs.
THE UNITED STATES.

Date of petition, 15th Oct., 1836. Favorable report of committee of Colonization, Nov. 10, 1836; approval of Departmental Assembly,

19th May, 1840. Decree of title, Feb. 20, 1839. The signatures and occupancy and full settlement, &c., proven satisfactorily.

71 The petition should be amended so as to ask for a confirmation to James Williams and the heirs and representatives of Squire Williams, he being dead.

Mesne conveyances I think are sufficiently proven. The heirs of Squire Williams should be proven.

N. Thompson of Santa Cruz can prove who the heirs are. H. Speel the subscribing witness to deed from delivery to Williams can prove its execution.

Filed in office, December 26th, 1854.

(Signed) GEO. FISHER *Sec'y.*

Motion.

JAMES WILLIAMS AND SQUIRE WILLIAMS, Claimants, *vs.* THE UNITED STATES.

BEFORE THE BOARD OF UNITED STATES LAND COMMISSION.

The said claimant, James Williams, by attorney D. S. Gregory, moves the Court that leave be granted him to file an amend-

72 ed petition in the above entitled cause, to be in the name of James Williams and the heirs of Squire Williams, deceased.

D. S. GREGORY,
Att'y for claimant.

Affidavit.

STATE OF CALIFORNIA, SAN FRANCISCO COUNTY. } *ss*

Elisha O. Crosby being by me duly sworn, deposes and says that he was the original attorney of record for claimants in the above entitled cause; that he did not know when he filed the said original petition; that the above named person, Squire Williams, was dead, and that he has since learned that he died in the year 1848.

E. O. CROSBY.

Sworn to and subscribed before me this 13th Feb'y, 1855.

ALPHEUS FELCH,
Commissioner.

Filed in office Feb'y 13th, 1855.

(Signed) GEO. FISHER, *Sec'y.*

73 *Proceedings of Probate Court.*

In tne Hon. the Probate Court of said County.

STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ. }

NOVEMBER TERM, A. D. 1850.
To wit: NOVEMBER 4th, A. D. 1850.

Proof satisfactory to the court being now given that James Williams has filed a petition praying that letters of administration be granted to him on the estate of Squire Williams, who died intestate, and that due and legal notice of such application had been given,

And now no person appearing to contest said application, it is ordered by the court, that letters of administration be issued to the said James Williams.

T. R. PER LEE, *County Judge*
Santa Cruz County.

Attest: PETER TRACY, *Clerk.*

74 STATE OF CALIFORNIA, }
COUNTY OF SANTA CRUZ. }

I, Peter Tracy, County Clerk and ex-officio Clerk of the Probate Court, in and for the County and State aforesaid, do hereby certify the foregoing to be a true and correct transcript of the records of said Probate Court, in the matter of the estate of Squire Williams, deceased.

Witness my hand and the seal of said Probate Court, affixed the 26th day of March, A. D. 1855.

[SEAL.] PETER TRACY, *Clerk.*

No. 42.

The within letter of administration may be filed now as of the date the said case was submitted.

J. H. McKUNE,
U. S. Law Agent.

March 29th, 1855.
Filed in office March 29th, 1855.
(Signed) GEO. FISHER, *Secretary.*

75 *Proceedings in Probate Court.*

In the probate court of said county.

STATE OF CALIFORNIA, }
COUNTY OF SANTA CRUZ. }

December Term, 1852.

Second day, to wit: the 28th Dec., A. D. 1852.

In the matter of the settlement of the estate of Squire Williams, deceased.

On this day comes James Williams, administrator of, by his attorney, D. S. Gregory, and produces proofs satisfactory to the Court that due and legal notice has been given by publication of the order of Court requiring all persons to appear and show cause why an order shall not be made authorizing the said James Williams to sell the one undivided third part of a certain Ranch known by as the

Rancho del Arroyo de la Laguna, and situate in the County of Santa Cruz, and no person having appeared to contest the said application,

It is ordered by the Court that the said Williams sell the
76 said real estate, to wit: the one undivided one-third part of that tract of land situate in the County of Santa Cruz, California, and known as the Rancho del Arroyo de la Laguna, to the highest bidder for cash, in front of the court house door in Santa Cruz (the town of) county and State aforesaid, on the 10th day of February, A. D. 1853, between the hours of nine o'clock A. M. and sunset.

And it is further ordered that due notice of the time and place of holding the said sale shall be given by posting up notices of the same and by publication in the *Times and Transcript* newspaper in San Francisco, as required by law.

T. R. PER LEE,
County Judge, Santa Cruz County.

Attest,
PETER TRACY, *Clerk.*

STATE OF CALIFORNIA, }
COUNTY OF SANTA CRUZ. }

I, Peter Tracy, county clerk and ex-officio clerk of the
77 Probate Court in and for the County and State aforesaid, do hereby certify that the foregoing is a true and correct transcript of proceedings had in Probate Court as aforesaid in the matter of the settlement of the estate of Squire Williams, deceased, as now of record in the journal of proceedings of said Court.

Witness my hand and the seal of the said Probate Court affixed, this, the twenty-sixth day of March, A. D. 1855.

[SEAL] PETER TRACY, *Clerk.*

The foregoing order of Court directing a sale of certain property may be read as of the date when case No. 42 was submitted, and may be considered in evidence with the same force and effect as though filed before submission.

J. H. McCUNE, *U. S. Law Agent.*

Filed in office March 29th, 1855.

(Signed) GEO. FISHER, *Sec'y.*

78 *Proceedings in Probate Court.*

In the Probate Court of said County.

STATE OF CALIFORNIA,
County of Santa Cruz.

JUNE TERM, A. D. 1853—2nd DAY.

To-wit: 26th June, A. D. 1853.

In the matter of the settlement of the estate of Squire Williams, deceased.

On this day comes James Williams, administrator of the said estate, and files the Exhibit of the sales of the said estate of the said Squire Williams.

And it appearing to the Court that the said administrator did, on the 29th day of March, A. D. 1853, after having given due notice thereof, according to law, offer for sale in accordance with an order of this Court, in front of the Court House door in Santa Cruz, to the highest bidder for cash, the following described real estate belonging to the said estate of the said Squire Williams, deceased, to-wit:

79 "The one undivided one-third part of said deceased's interest (the same being the one undivided one-half) in the real estate known as the Arroyo de la Laguna, situate in the County of Santa Cruz, and bounded southerly by the Bay of Monterey, on the east by the Lagoon de las Palas, on the north by the Santa Cruz mountains, and westerly by the creek San Vicente, and containing one square league; and Edward L. Williams having bid the sum of seven hundred and ten dollars, which said sum being the highest and best bid, the said interest, to-wit: the one undivided one-third part of the said interest of the said deceased, was then and there knocked down and sold to the said Edward L. Williams.

And it further appearing to the Court that the said sale was legally made and fairly conducted, and that the said sum so bid as
80 aforesaid is not disproportionate to the value of the real estate so sold, and that the said sale was made in conformity to law and in accordance with the order of the this Court,

It is therefore ordered by the Court that the said sale be and the same is hereby confirmed and made valid, and it is further ordered by the Court that the said administrator of the said estate convey to the said Edward L. Williams, the purchaser thereof, the said real estate in accordance with the statutes in such cases made and provided.

T. R. PER LEE,
County Judge, Santa Cruz Co.

Attest, PETER TRACY, *Clerk.*

STATE OF CALIFORNIA, }
COUNTY OF SANTA CRUZ. } *ss.*

I, Peter Tracy, county clerk and ex-officio clerk of the Pro-
81 bate Court in and for the County and State aforesaid, do hereby certify that the foregoing is a true and correct transcript of proceedings had in said Probate Court as now of record in the minutes of said Court in the matter of the settlement of the estate of Squire Williams, deceased.

In testimony whereof, I have hereunto set my hand and affixed the seal of the Probate Court aforesaid, this the 20th day of March, A. D. 1855.

[SEAL] PETER TRACY, *Clerk.*

The above order of the Probate Court of the County of Santa Cruz may be filed and considered in evidence with the same force and effect as though filed before the case No. 42 had been submitted.

J. H. McKUNE,
U. S. Law Agent.

Filed in office March 29th, 1855.
(Signed) GEO. FISHER, *Secretary.*

82 *Conveyance from James Williams to Edward L. Williams.*

California, Santa Cruz County.

Whereas, on the 26th day of November, A. D. 1850, at the November term for said year of the Probate Court of the County aforesaid, the following order was made by the said Court, to wit:

In the matter of the settlement of the estate of Squire Williams deceased.

On this day came James Williams, by his attorney (Mr. Gregory), and filed the proof of publication by the order of this Court, requiring all persons interested to appear and show cause why an order should not be made authorizing the said administrator to sell the one undivided one-third part of a certain Rancho known as the Rancho Arroyo de la Laguna, and no person appearing to contest the application, and no just cause appearing to the court why an order should not be made,

83 It is therefore ordered by the Court that the said James Williams, administrator, sell the said real estate, to wit: the one undivided one-third of the Rancho del Arroyo de la Laguna, situate in this county, for cash to the highest bidder, in front of the Court House, in the town of Santa Cruz, in said county, on the 27th day of December next, and it is further ordered that notice of said sale shall be given by publication in the *Times* and *Transcript* newspaper, published in San Francisco.

And whereas, also, on the sixth day of June, A. D. 1853, at the June Term of the Court aforesaid, the following order was made by the said Court:

In the matter of the settlement of the estate of Squire Williams, deceased.

On this day comes James Willliams, administrator of the said Estate, and files the Exhibits of the sales of said Estate of the

84 said Squire Williams.

And it appearing to the Court that the said administrator did, on the 29th day of March, A. D. 1853, after having given due notice thereof according to law, offer for sale in accordance with an order of this Court, in front of the Court House door, in Santa Cruz, to the highest bidder for cash, that following described real estate belonging to the said Estate of the said Squire Williams, deceased, to wit: The one undivided third part of said deceased's interest, (the same being the one undivided one-half part) in the real estate

known as the "Arroyo de la Laguna," situate in the county of Santa Cruz, and bounded southerly by the Bay of Monterey, on the east by the Lagoon de las Palas, on the north by the Santa Cruz mountains, and westerly by the creek of San Vicente, and containing one square league.

85 And Edward L. Williams having bid the sum of seven hundred and ten dollars, which said sum being the highest sum bid, the said interest, to wit: the one undivided one-third part of said interest of the said deceased was then and there knocked down and sold to the said Edward L. Williams.

And it further appearing to the Court that the said sale was legally made and fairly conducted, and that the said sum so bid was not disproportionate to the value of the real estate so sold, and that the said sale was made in conformity to law and in accordance with the order of this Court,

It is therefore ordered that the said sale be, and the same is hereby, confirmed and made valid.

And it is further ordered by the Court that the said administrator of the said Estate convey to the said Edward L. Williams, the purchaser thereof, the said real Estate in accordance

86 with the Statutes in such case made and provided.

Now therefore, I, the said James Williams, as administrator of the said Estate, in consideration of seven hundred and ten dollars to me paid by the said Edward L. Williams, the receipt whereof is hereby acknowledged, do hereby remise, release and forever quit claim, sell and convey unto the said Edward L. Williams the one undivided third part of the interest of the said deceased in and to said tract of land described above, and known as the "Rancho Arroyo de la Laguna," and situate in said county,

To have and to hold the said interest in said tract of land, with all the privileges, rights and appurtenances thereof, unto him, the said Edward L. Williams, his heirs and assigns, to his and their use and behoof forever.

In testimony whereof I have hereunto set my hand and seal as administrator of the said estate, on this the 5th day of July, A. D. 1853.

87 JAMES WILLIAMS, [SEAL.]

Signed, sealed and delivered in presence of Peter Tracy.

STATE OF CALIFORNIA, }
COUNTY OF SANTA CRUZ. }

On this 13th day of February, A. D. 1854, before me, Peter Tracy, County clerk in and for the County aforesaid, personally came James Williams, to me known to be the individual described in and who executed the foregoing instrument, and who acknowledged that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed the seal of the County Court at office the day and year last above written.

[SEAL.]

PETER TRACY,
County Clerk.

Recorded in Book of Deeds, volume second, and upon
88 pages 370, 371 and 372 of the Records of the Recorder's office, in and for the County of Santa Cruz and State of California, February 16th, 1854.

Attest,
P. TRACY, *Co. Recorder.*

Filed in office Feb. 26, 1855.
(Signed.) GEO. FISHER, *Sec'y.*

89 *Conveyance from E. L. Williams to James Williams.*

California, Santa Cruz County.

Know all men by these presents, that I, Edward L. Williams, in consideration of the sum of nine hundred dollars, to me paid by James Williams, of said County, the receipt whereof is hereby acknowledged, do hereby remise, release and forever quit claim unto the said James Williams, all of my right, title, interest and claim in and to a certain tract of land lying in said County, and described as follows: bounded southerly by the Bay of Monterey, on the east by the Laguna de las Palas, on the north by the Santa Cruz mountains, on the westerly by the creek San Vicente, and containing one square league, more or less, which interest of the said Edward L. Williams, in and to the aforesaid tract of land is the one undivided sixth part of the same. To have and to hold the said described premises, together with all the rights, privileges and appurtenances thereto belonging, unto the said James Wil-
90 liams, his heirs and assigns forever, so that neither I, the said Edward L. Williams, nor my heirs nor any person claiming by or under me, shall at any time hereafter, have claim or demand any right to the aforesaid premises, or any part thereof.

In testimony whereof, I have hereunto set my hand and seal this, the 30th day of January, A. D. eighteen hundred and fifty-four, the word "written" being interlined before signing.

EDW. L. WILLIAMS. [SEAL].

Signed, sealed and delivered in presence of
JOHN KURTZ,
GEORGE C. STEVENS.

STATE OF CALIFORNIA, }
SANTA CRUZ COUNTY: }

On this the second day of April, A. D. eighteen hundred and fifty-four, before me, D. S. Gregory, a Notary Public in and for said County, personally appeared John Kurtz, personally known to me to be the person whose name is subscribed to the foregoing within instrument as a witness thereto, and who, being duly sworn,
91 deposes and says that Edward L. Williams, whose name is subscribed thereto, is the person who executed the same; that said Williams executed the said instrument freely and voluntarily, and for the uses and purposes therein mentioned, and that the deponent subscribed his name as a witness thereof in the presence of said Williams and of George C. Stevens, the other subscribing witness thereof.

JOHN KURTZ.

Sworn to and subscribed before me this 31st day of March, A. D. 1854.

[SEAL.] D. S. GREGORY,
Notary Public.

Recorded in Book of Records, vol. 3, and upon page 22 of the Records of the Recorder's Office in and for the county of Santa Cruz, Cal., Feb. 21, 1855.

P. TRACY, *Co. Recorder.*

Filed in office Feb. 26, 1855.

(Signed) GEO. FISHER, *Sec'y.*

92 *Opinion of the Board delivered by Commissioner R. Aug. Thompson.*

JAMES WILLIAMS *et al* }
vs. } No. 42.
THE UNITED STATES. }

It appears from the certified copy of the espediente filed in this case, that on the 14th of October, 1836, Gil Sanchez presented his petition to Nicolas Gutierrez, political chief *ad interim* of Alta California, praying for a grant of the tract of land on the coast of Santa Cruz known by the name of the Arroyo de la Laguna.

After the customary references and informes, on the 20th of February, 1839, Juan B. Alvarado, then acting Governor, entered a decree of concession granting him the land extending from the Arroyo de San Vicente to the Arroyo de la Laguna as shown by the map in the espediente, which decree was duly confirmed by the Departmental Assembly on the 12th of May, 1840, and a certificate of the same signed by the Governor on the 12th of June following,
93 directing a testimonio or certified copy to be delivered to the party in confirmation of his right to the premises.

It appears from the depositions taken and filed in the case, that

the grantee, Sanchez, immediately after he obtained the concession, entered upon the land, built on it a house, which he occupied, stocked it with horses and cattle, and enclosed and cultivated a portion of it; which occupation was continued by him until he sold it in the year 1847 to James G. T. Dunleavy, through whom the present claimants derive their title. There is no evidence that a formal title or deed was ever delivered to the grantee, but every preliminary step was taken and all the requirements of the law fully complied with in order to entitle him to demand of the Governor the document to serve him as a title, which that officer is required to issue to the party by the 8th article of the regulations of 1828.

The obligation to perfect the title thus vesting in the
94 Mexican Government, is devolved, by the treaty of cession, on the United States

The evidence in our opinion clearly establishes the validity of the claim, and a decree will be entered confirming it to the petitioners according to their respective rights and interests.

Filed in office July 10th, 1855.

(Signed), GEO. FISHER, *Secretary.*

Decree of Confirmation.

James Williams and the heirs and legal representatives of Squire Williams, deceased.

vs.

The United States. No. 42.

In this case, on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the petitioners is valid, and it is therefore decreed that the same be confirmed to the said petitioners according to their respective rights and interests in the premises.

The land of which confirmation is made is known by the name of "Arroyo de la Laguna," and is situated in the County of
95 Santa Cruz, and is of the extent of one square league, provided the boundaries hereinafter named shall be found to contain that quantity, but if not, then this confirmation is for so much as may be embraced within the same, to wit: On the east by the Arroyo de la Laguna, on the south by the sea, on the west by the Arroyo de San Vicente, and on the north by the Sierra, reference being had to the decree of concession and map contained in the espediente, a traced copy of which is filed among the papers in the case.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office July 10, 1855.

(Signed.) GEO. FISHER, *Sec'y.*

96 *Order.*

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Northern District of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the Secretary, one of which transcripts shall be filed with the Clerk of the United States District Court of the Northern District of California, and the other be transmitted to the Attorney Gene. al of the United States.

Secretary's Certificate.

Office of the Board of Commissioners to ascertain and settle the private land claims in the State of California.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing sixty-nine pages, numbered
97 from 1 to 69, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said Board, of the documentary evidence and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 42, on the docket of the said Board, wherein James and Squire Williams are the claimants against the United States, for the place known by the name of "Arroyo de la Laguna."

[SEAL.] In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this twenty-first day of November, A. D. 1855, and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec'y.*

(Endorsed.)
Filed December 1, 1855.
JOHN MONROE, *Clerk.*

98 *Notice of appeal.*

Office of the Attorney General of the United States.
Washington, 31 Dec., 1855.

42. "Arroyo de la Laguna," James and Squire Williams claimants.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 15th day of

December, 1855, the appeal in the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

C. CUSHING,
Attorney General.

(Endorsed)
Filed February 11, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

99 *Notice that no appeal will be prosecuted.*

California Land Claims. Attorney General's office, 6, October, 1856.

Sir:—In the case of the claim of James and Squire Williams, confirmed to the claimants by the Commissioners, Case No. forty-two, (42) appeal will not be prosecuted by the United States.

I am, respectfully,
C. CUSHING.

WM. BLANDING, ESQ., U. S. Attorney, San Francisco.

100 *Stipulation.*

In the District Court of the United States. Northern District of California.

THE UNITED STATES	
vs.	Case No. 345.
JAMES WILLIAMS and	Transcript No. 42.
SQUIRE WILLIAMS	

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that the appeal heretofore taken in this case from the decision of the United States Land Commission to ascertain and settle private land claims in California, be dismissed, and the notice of intention to prosecute said appeal filed in this Court by the Attorney General of the United States, be withdrawn, and that the claimants have leave to proceed under the decree of the said Land Commission in his favor, as under *Final Decree.*

WM. BLANDING,
District Attorney.
JAMES WILLIAMS.

101 (Endorsed.)
Filed Dec. 24, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order.

At a stated term of the District Court of the United States of America, for the Northern District of California, held at the Court-room, in the city of San Francisco, on Wednesday, the 24th day of December, in the year of our Lord one thousand eight hundred and fifty six.

Present,
The Hon. OGDEN HOFFMAN,
District Judge.

THE UNITED STATES
vs.
JAMES WILLIAMS and
SQUIRE WILLIAMS.
} Case No. 345,
Transcript No. 42.

The Attorney General of the United States having given notice that no appeal will be further prosecuted in this case, and
102 a stipulation having been entered into by the United States District Attorney for the dismissal of the appeal from the decision of the Board of United States Land Commission heretofore rendered in his favor; on motion of the District Attorney, it is ordered, adjudged and decreed that the appeal pending in this Court be dismissed, and that the claimants have leave to proceed under the decree of the Land Commission, heretofore rendered in their favor as a *final decree.*

OGDEN HOFFMAN,
U. S. Dist. Judge.

(Endorsed)
Filed Dec. 24, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

103 *Amended petition of heirs of Squire Williams.*

To the Honorable the Judge of the District Court of the United States for the District of California:

The amended petition of William Williams, Franklin J. A. Williams, John S. Williams, John L. Williams, Jasper Williams, Sarah E. Williams, Martha L. Williams, Savanah J. Williams, Cynthia A. Williams, Cynthia A. Thompson, Sarah Miller, Louisa Carson, William H. Smith, Columbus N. Smith, Charles C. Smith, Mary M. Smith, Linarius B. Smith, Martha Candill, Mary M. Walker, Jefferson A. Randal, Drake Bowen, Mary M. Bowen, Sarah E. Burns, Robert Allison, James W. Allison, Sarah Ann Hubbard, the heirs of Squire Williams, confirmees of the land known as Arroyo de la Laguna, respectfully shews:

That in the petitions herein filed in the Land Commission, in consequence of an error in translating one of the claimant's title
104 papers, the land claimed was estimated at one league in extent.

Petitioners shew that the quantity of land was not estimated when the grant was made, but the said land was granted by its name as a "place."

Petitioners pray that the estimates of quantity made in the said petition to the Land Commission be stricken out, and that the land claimed be confirmed to the claimants herein, to wit: the land known as the Arroyo de la Laguna, bounded as follows: On the east by the Arroyo de la Laguna, on the south by the sea, on the west by the Arroyo de San Vicente, and on the north by the Sierra, reference being had to the decree of concession and map contained in the Espediente, a traced copy of which is filed among the papers in the case.

GREY & BRANDON,
Attorneys for Petitioners.

(Endorsed.)

105 Service of a copy of the within amended petition admitted this 27th day of May, 1872.

WM. W. MORROW,
Ass't. U. S. Attorney.

Filed May 27, A. D. 1872.
EDW. B. COTTER, *Clerk.*
By A. D. GRIMWOOD, *Deputy Clerk.*

106 *Notice of motion to assign a day for the hearing.*

In the District Court of the United States for the District of California.

THE UNITED STATES
vs.
JAMES and SQUIRE WILLIAMS. } No. 345.

Please take notice that on Monday, May 27th, 1872, at the opening of said Court at the Court-room in the city of San Francisco, we shall move the Court to assign a day for the hearing of this case.

San Francisco, *May* 21st, 1872.

GREY & BRANDON,
Attorneys for William Williams and the other heirs of Squire Williams.

L. D. LATIMER, Esq., U. S. Attorney.

(Endorsed)

Service of a copy of the within notice admitted this 21st day of May, 1872.

WM. W. MORROW,
Ass't. U. S. Attorney.

Filed May 27th, A. D. 1872.
EDW'D. B. COTTER, *Clerk.*
By A. D. GRIMWOOD, *Deputy Clerk.*

107 *Affidavit of C. V. Grey.*

In the District Court of the United States for the District of California.

THE UNITED STATES
vs.
JAMES and SQUIRE WILLIAMS.

STATE OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO. } ss

Cyril V. Grey being duly sworn, deposes and says that he is an attorney at law, residing in the City and County of San Francisco, is over 21 years of age, and is competent to be a witness in this case.

That early in 1872 he was employed professionally to make an examination into the rights of the respective heirs of Squire Williams, one of the claimants in this case, in and to the land of which confirmation had been sought in the United States Land Commission, that finding it impossible to obtain definite information
108 on this point in this State, it became necessary to visit the State of Missouri, which affiant did, and there he had personal conferences with William Williams, a brother of said Squire Williams, and with his wife and others who were residing in Cape Girardeau county, in Missouri; he also had conferences with Henry S. Williams, residing in Santa Cruz county, California, who married one of the heirs of Squire Williams, and also with other persons who were acquainted with the family of said Squire Williams, and he learned from them the following facts:

That the said Squire Williams died in California in the year 1848, leaving no widow nor children, but there were a large number of heirs, consisting of brothers and sisters the children of deceased brothers and sisters and grand children of deceased brothers and sisters, (whose parents had also died) some of whom resided in California, but the most of them residing in various parts of the State of Missouri; that at the time of the
109 filing in the United States District Court of the stipulation signed by James Williams, who was one of the claimants in this case, and of the order of the Court based thereon, the said claimant, Squire Williams, was dead, and that of the numerous heirs of said Squire Williams, residing in Missouri and California, at least fifteen of them were minors, of whom five have arrived respectively at majority within the last five, four and three years; and that all of such minors, except one, were residents of the State of Missouri; that he learned the above facts after careful and extensive inquiry from various members of the family to which said Squire Williams had belonged, and others, and that he believes them to be true.

Affiant also says that it appears by the records of the Probate Court of Santa Cruz county, California, that the said James Williams, the other of said claimants, died in the month of September,
110 1858, his will, which was admitted to probate in December, 1858, being dated July 9th, 1858, and leaving his estate to his two sons, then minors, but recently become of age.

Affiant also says that in the year 1872, affiant's legal firm was employed to prosecute the case and obtain a survey and patent for the lands to which the confirmees were entitled; that on the examination of the transcript in the United States District Court affiant discovered that the paper filed in said Court, purporting to be a stipulation for the dismissal of the appeal from the decree of the United States Land Commission, had not been signed by any of the confirmees and claimants, except James Williams, nor by the attorney of record, and he was therefore of the opinion that no final decree had been made in the United States District Court, and that it would be necessary to have such final decree entered in order to entitle the claimants to have the survey made of the land as provided by the acts of Congress, and to obtain a patent there-
111 for. With that view, and to correct a material error in the decree of the United States Land Commission arising out of a mistranslation of descriptive words occurring in the original expediente or title papers, affiant filed a petition in this Court for a proper decree in accordance with the terms of the grant made by the Mexican Government.

Further affiant saith not.

CYRIL V. GREY.

Subscribed and sworn to at San Francisco, this 26th day of October, 1874, before me,

[SEAL.] HENRY S. TIBBEY,
Notary Public.

(Endorsed.)
Filed November 7, A. D. 1874.
EDW'D B. COTTER, *Clerk.*
By A. D. GRIMWOOD, *Deputy Clerk.*

112 *Affidavit of Henry S. Williams.*

In the District Court of the United States for the District of California.

THE UNITED STATES
vs.
JAMES & SQUIRE WILLIAMS.

STATE OF CALIFORNIA,
COUNTY OF SANTA CRUZ. } ss.

Henry S. Williams being duly sworn, says he was formerly a resident of Cape Girardeau County, in Missouri, of which place

James & Squire Williams and their brothers and sisters were natives, and was well acquainted with the family, and his wife is a niece of said James and Squire. Affiant says he knows many of the heirs of said Squire Williams, and that many of them were minors and have but recently attained the age of majority. That he knows John S. Williams, the only son of John S. Williams, a brother of said Squire, and said John S. Williams, Sen'r, who died many yeras ago —he is informed in 1849 or 1850—and said John S. Williams,
113 Jun'r was then a child of very tender years, and he is now, to the best of affiant's knowledge, 25 or 26 years of age, or thereabouts. That affiant's wife is a daughter of Nahala Smith, who was a sister of said Squire, and has been dead many years, and affiant's said wife is now 26 years of age. That he knows Linarius B., Charles C., and Mary M. Smith; that they are the children of Bolin Smith, who was the elder brother of affiant's wife, and has been dead over twenty years; and said Linarius, Charles, and Mary are of the ages, respectively, of 24 years, 22 years, and 20 years. That many others of said heirs of said Squire were also minors, but affiant cannot at present recall all their names or ages.

Affiant is now and has been for some years a resident of Pajaro Valley, near Watsonville, in Santa Cruz County.

HENRY S. WILLIAMS.

114 Subscribed and sworn to this 22nd day of October, 1874, before me.

L. D. HOLBROOK,
Notary Public.

[SEAL]

(Endorsed.)
Filed November 7, A. D. 1874.
EDW'D. B. COTTER, *Clerk.*
By A. D. GRIMWOOD, *Deputy Clerk.*

115 *Affidavit of Robert Crockett.*

In the District Court of the United States, for the District of California.

JAMES and SQUIRE WILLIAMS
vs.
THE UNITED STATES. } No. 345 N. D.

DISTRICT OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO. } ss

Robert Crockett being duly sworn, deposes and says that he is a Clerk in the office of the Clerk of the District Court of the United States for the District of California, and is familiar with the transcripts filed in said Court, in land cases arising out of Spanish or Mexican grants, and with the records of said Court in such cases; that he has made a personal examination of all the original tran-

scripts and papers in the land cases on file in the office of the Clerk of the said Court in which decrees of confirmation in favor of the claimant or claimants were made by the Board of Land Com-
116 missioners, notice given by the U. S. Attorney General, that appeal would be prosecuted by the United States, and subsequent notice by the said U. S. Attorney General, that the appeal would not be further prosecuted by the United States, prior to any decree having been made by the District Court.

That he found among the records of the former Northern District of California, Thirty-six (36) such cases and in Thirty-two (32) of them a stipulation on file, signed by the United States District Attorney for that District and by the Attorneys for the claimants, that the United States have leave to withdraw their notice of intention to prosecute appeal and that the appeal from the decision of the Board of Land Commissioners be dismissed and that the claimant or claimants have leave to proceed under the decree of the said Board as under final decree; that in two (2) of said cases he found a similiar stipulation signed by the said United States District Attorney and by the claimant in person, in one (1) no stipulation at
117 all on file; and in one (the case of James and Squire Williams vs. The United States) such a stipulation signed by the United States District Attorney and James Williams (one of the claimants) alone, without the signature of the attorney, or attorneys, for the claimants.

That he found among the records of the former Southern District of California forty-nine (49) such cases; that in four (4) of them there was no stipulation on file at all, but a note upon the register of such cases, that a stipulation had been filed; in all the rest there was either a stipulation on file, signed by the United States District Attorney for said District and by the claimant's attorney or attorneys, or a recital in the order of the Court, granting leave to the United States to withdraw its notice of intention to prosecute appeal, and dismissing the appeal from the decision of the Board of Land Commissioners, that the claimant's attorneys were present in
118 open Court and consented to such withdrawal and dismissal; that in the case in the said Northern District, in which no stipulation was filed (T. Murphy vs. The United States, No. 16 N. D.) the survey of the land was contested in the District Court and a final order made.

ROB'T. CROCKETT.

Subscribed and sworn to before me this 4th day of November, A. D. 1874.

A. D. GRIMWOOD,
U. S. Com'r. Dist. of Cal.

Endorsed: Filed November 7th A. D. 1874.

EDWD. B. COTTER, *Clerk*,
By A. D. GRIMWOOD, *Deputy Clerk.*

119 *Deposition of R. C. Hopkins.*

District Court of the United States for the District of California.

JAMES AND SQUIRE WILLIAMS, *vs.* THE UNITED STATES. } No. 345 N. D.

Be it remembered, that on this 17th day of October, A. D. 1874, at my office in the United States Court Building, in the city of San Francisco, personally appeared before me, Robert Crockett, a commissioner, to take acknowledgments of bail and affidavits, etc., duly appointed by the Circuit Court of the United States for the Ninth Circuit and District of California, R. C. Hopkins, a witness on behalf of the claimants in the above entitled suit.

Walter Van Dyke, Esq., United States attorney, appeared on behalf of the United States, and Messrs. Grey and Brandon, as attoneys for the claimants.

And the said witness, having been by me first cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, in the cause aforesaid, did thereupon depose and say as follows, that is to say:

Examination in chief by attorneys for claimants.

Question. What is your name, age, occupation and place of residence?

Answer. My name is R. C. Hopkins; my age is 21 years and upwards; my occupation is Keeper of the Spanish Archives, in the U. S. Surveyor General's office, and my place of residence, San Francisco, Cal.

120 Question 2. State for what length of time you have been keeper of the Spanish archives?

Answer 2. Nineteen years.

Question 3. Are you familiar with the original papers of the grant to Gil Sanchez of the place called the Arroyo de la Laguna?

Answer 3. I am.

Question 4. In whose possession are those papers now?

Answer 4. They are in my possession.

Question 5. Are they now before you?

Answer 5. Yes.

Question 6. Are you acquainted with the Spanish language, that is to say, that language as used in describing tracts of lands, and the ceremonies of Mexican officials in granting lands?

Answer 6. I am, and have been most of my life.

121 Question 7. Look at the original petition for the said land, and state how it is therein described.

Answer 7. It is described as "the land known on the coast of Santa Cruz by the name of Arroyo de la Laguna, as shown by the annexed map." (El terreno conocido de la costa de Santa Cruz con el nombre del Arroyo de la Laguna, segun el diseño qe adjunta.)

Question 8. What is the next paper in the expendiente?

Answer 8. It is the order of the Governor referring the petition to the ayuntamiento.

Question 9. The next?

Answer 9. The order referring it to the Committee on Public Lands. The next is the report of the committee, in which the land is described as "the Arroyo de la Laguna, on the coast of
122 Santa Cruz."

Question 10. What is the next original paper?

Answer 10. It is an order referring the matter to the Mayor Domo of the Mission of Santa Cruz. The next is the report of Juan Gonzalez, the Mayor Domo of Santa Cruz, at that time, in which he describes the land as "the place petitioned for by the citizen Gil Sanchez." (El sitio qe solicita el C. Gil Sanchez.) The next paper is the decree of concession in which it is described as "the land known by the name of the Arroyo de la Laguna," taking as boundaries from the Arroyo of San Vicente as far as the Laguna, as is shown by the map in the expendiente." (El terreno conocido con el nombre del Arrollo de la Laguna tomando por linders desde el Arroyo de San Vicente hasta el de la Laguna como se manifesta en el diseño qe corre agregado al espediente.)

Question 11. What is the next original paper?

123 Answer 11. It is the report of the Committee on Vacant Lands, signed by Jose Rafael Gonzalez, describing the land as "the place Arroyo de la Laguna." (El sitio Arroyo de la Laguna).

Question 12. What is the next original paper?

Answer 12. It is the order of the Departmental Assembly.

Question 13. What is the next original paper?

Answer 13. An order from the Governor directing a certified copy of the approval to be given to the party interested. In this order the land is described as "the land named Arroyo de la Laguna," (El terreno nombrado Arroyo de la Laguna), and these are all the instances in which the land is described in the original papers.

Question 14. Look at the translation of the report of Gonzalez, referred to in your answer No. 10, made by the Clerk of the Land Commission, and state if that translation is a correct one, and if not, wherein it errs.

124 Answer 14. It is not correct. It errs in this: The descriptive words used in the original of Gonzalez' report are, "El sitio qe. solicita," a correct translation of which is as follows: "The place petitioned for." The translator has rendered it in the words following: "The league which the citizen Gil Sanchez petitions for."

Question 15. Now state the meaning of the words "un sitio de ganado mayor," as used in the Mexican system in the granting of lands.

Answer 15. Literally these terms mean, a place for the pasturing of large cattle; as used in describing lands, it denotes in quantity one square league, because it was considered that that quantity of land was sufficient for that purpose.

Question 16. Describe the meaning of the words "un sitio de ganado menor," as used in that system.

Answer 16. They mean "a place for the pasturing of small
125 stock," the area of which is 3333⅓ varas square, or ½ a square league, which area was considered to be sufficient for pasturing small stock.

Question 17. In that system, what is the meaning of the word *sitio* when used without reference to or in connection with "*ganado mayor*" and "*ganado menor?*"

Answer 17. The meaning corresponds precisely to the English words *place*, *site* or *situation*, and without reference to quantity.

Question 18. In the original espediente how many times do you find the word *Sitio* used?

Answer 18. It is used twice. First in the report of Gonzalez, the Mayor Domo of the Mission of Santa Cruz, and the second time in the report of Gonzalez, one of the Committee on Vacant Lands, to the Assembly.

Question 19. In those instances or in any other part of
126 the expendiente is the word "*sitio*" qualified by, or connected with, the words "*ganado mayor*" or "*ganado menor?*"

Answer 19. It is not.

Question 20. Is the word "*league*" a correct translation of the word "*sitio*" when used by itself, under any circumstances?

Answer 20. It is not.

Question 21. Are you familiar with the history and character of the land grants found in the Spanish archives in the Surveyor-General's office, and have you had experience in determining the genuineness of these grants, and if so, what is your opinion as to the genuineness of the original papers in this case?

Answer 21. I have been familiar with the history of these land grants for the 19 years last past, having been almost constantly engaged in examining the records in relation to the same, I have
127 examined the original title papers in this case; I am familiar with all the signatures found therein, and I am confident that all of said signatures are genuine, that the said espediente *per se* bears every mark of verity, and that it is found by number entered upon an original list forming a part of the Spanish archives in that office, which list is known as the *Jimeno Index.*

And thereupon the further taking of this deposition was continued to Monday, October 19, A. D. 1874, at 11 o'clock A. M.

SAN FRANCISCO, *October* 19, 1874.

Parties appear by attorneys as before and the witness being present, this deposition is proceeded with.

Cross Examination.

Questions by Mr. Van Dyke, United States attorney.

Question 22. Have you not known of instances in which the word "*sitio*," as used in Spanish land titles, meant one square league?

128 Answer 22. I can't recall any instances. I know many instances in which the word "sitio" is used in reference to tracts of land containing several square leagues. The laws of colonization of 1824, fixed the quantity that could be given by grant to one person, which quantity was so many square leagues, that is *eleven* of this quantity; one portion was to be irrigable, another fitted only for sowing grain, the other portion of which was pasture land. In the grants made after this time, the measurement of the square league or *sitio de ganado mayor* was generally, but not always, used in making grants. In grants made before this time, that is to say, under the Spanish Government, the term *sitio de ganado mayor*, was seldom, if ever, used.

Question 23. State whether the term or word "sitio" has, or has not any reference to the quantity of the land granted.

129 Answer 23. *Per se* none whatever; when not used in connection with the words *ganado mayor* or *ganado menor*, it has no reference to quantity. It corresponds precisely with the English words site, place or situation, when used alone. It is, even now, customary with the native Californians, when speaking of their homes or residences, to speak of them as "mi sitio" or "*mi rancho*," although the quantity might be one league or ten leagues.

R. C. HOPKINS.

Subscribed and sworn to before me,

ROBT. CROCKETT,

[SEAL.] U. S. Commissioner.

130 *Deposition of William Blanding.*

District Court of the United States for the District of California.

JAMES AND SQUIRE WILLIAMS
vs.
THE UNITED STATES. } No. 345 N. D.

Be it remembered, that on this 17th day of October, A. D. 1874, at my office in the United States Court Building, in the city of San Francisco, personally appeared before me Robert Crockett, a Commissioner, to take acknowledgments of bail and affidavits, etc., duly appointed by the Circuit Court of the United States for the Ninth Circuit and District of California, William Blanding, a witness on behalf of the claimants in the above entitled suit.

Walter Van Dyke, Esq., United States Attorney, appeared on behalf of the United States, and Messrs. Grey & Brandon on behalf of the claimants.

And the said witness, having been by me first cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, in the cause aforesaid, did thereupon depose and say as follows, that is to say:

Examination in chief by Attorneys for Claimants:

Question. What is your name, age, occupation, and place of residence?

Answer. My name is William Blanding; my age is twenty-one years and upwards; my occupation is attorney at law; and my place of residence is San Francisco.

131 Question 2. What public office in this State, if any, did you ever hold?

Answer. I was United States District Attorney during the years 1857 and 1858.

Question 3. Have you examined the papers in this case, in this Court, and do you find your signature appended to any one of them?

Answer. I have, and my signature is attached to what purports to be a stipulation for the dismissal of the appeal on the part of the United States.

Question 4. State the circumstances under which it was signed?

Answer. The letter from the Attorney General of the United States was received notifying me officially, that the United States would not further resist the claim, and, thereupon, it was the custom of the office for my clerk, John B. Williams, to draw up the

132 form of stipulation to be signed by the District Attorney and claimants' Attorneys, that the appeal be dismissed, and to procure the signatures of the claimants' Attorneys thereto. In this case I signed the stipulation expecting that Mr. Williams would pursue the custom of the office in procuring the signatures of the claimants' Attorneys thereto. Supposing this to have been done, the Court, at my instance, made the order on file dismissing the appeal of the United States.

I find now, upon examining that stipulation, that it was not signed by the claimants' Attorneys, but simply by James Williams, one of the claimants. Had I been aware of that fact at the time, I would not have procured the order without further signatures. It was the invariable custom of the office to require the Attorneys of the claimants to join in the stipulation. I know of no instance to the contrary. The Court always entered an order of dismissal

133 upon my representation that the stipulation had been signed by the claimants' Attorneys, and I thought that it had been done in this case, or I would not have applied for the order. It was not the custom of the office to recognise the signature of a claimant who had an Attorney of record. The deviation in this instance was an inadvertence on my part.

And thereupon the further taking of the deposition was continued until Monday, October 19th, A. D. 1874, at 2½ o'clock P. M.

SAN FRANCISCO, *October* 19, 1874.
2:30 o'clock P. M.

The attorneys for the respective parties and the witness being present and announcing themselves ready, the further taking of this deposition is proceeded with.

134 *Cross Examination—Questions by United States Attorney.*

Question 5. Can you explain how the mistake or the inadvertence that you speak of occurred in this case.

Answer. I cannot exactly; in fact, not at all. I obtained the order of dismissal from the District Court, supposing that the stipulation had been filed according to the usual custom of the office.

Question 6. Could you not have dismissed it without the consent of the claimant?

Answer. I did not consider that I had any legal right to do so without his or his attorney's consent.

Question 7. Why not?

Answer. Because the proceeding in the District Court was regarded as an original proceeding, and not an appeal, the Supreme Court of the United States having so held. Either party had
135 a right to introduce new testimony or evidence, or make any motion in the cause, as he might be advised.

Deposition closed.

WM. BLANDING.

Subscribed and sworn to before me.

[SEAL.] ROBT. CROCKETT, *U. S. Com'r.*

Endorsed: Filed November 7th, 1874.
EDWD. B. COTTER, *Clerk.*
By A. D. GRIMWOOD, *Deputy Clerk.*

136 Motion for a decree confirming claim according to original papers, heard and continued for further hearing, etc.

At a stated term of the District Court of the United States, of America, for the District of California, held at the Court room, in the city of San Francisco, on Saturday, the 7th day of November, in the year of our Lord, one thousand eight hundred and seventy-four.

Present: the Honorable Ogden Hoffman, Judge.

THE UNITED STATES
vs. } No. 345.
JAMES AND SQUIRE WILLIAMS,

The parties hereto being present in open Court, the United States represented by Walter Van Dyke, Esq., attorney for the United States, and the claimants by C. V. Grey, Esq., their attorney, and William Blanding, Esq., of counsel, the claimants moved for a decree confirming the claim herein according to the original papers, and after hearing said attorney and counsel, the matter was continued for further hearing to a day to be hereafter fixed.

137 Claimant's motion for a decree confirming claim according to original papers, heard and denied.

At a stated term of the District Court of the United States of America, for the District of California, held at the Court Room in the City of San Francisco, on Monday, the 16th day of November, in the year of our Lord, one thousand eight hundred and seventy-four.

Present: The Honorable OGDEN HOFFMAN, Judge.

THE UNITED STATES
vs.
JAMES AND SQUIRE WILLIAMS. } Land Case No. 345, N. D.

In this case the claimants' motion for a decree confirming the claim herein according to the original papers before the Land Commissioners, having been heretofore, to wit: on the 7th day of November, A. D. 1874, brought on for hearing, and the further hearing thereof having been then continued to a day to be thereafter fixed; and Walter Van Dyke, Esq., United States Attorney, on behalf of the United States, and C. V. Grey, Esq., attorney for, and Wm. Blanding, Esq., of counsel for claimants, being now present in open court, the said motion was this day again brought on for hearing; and after hearing Mr. Van Dyke, on behalf of the United States, and Messrs. Grey and Blanding, on behalf of the claimants, it is ordered that the claimants' motion for a decree, as aforesaid, be, and the same is hereby denied.

Notice of appeal.

138 In the District Court of the United States for the District of California.

JAMES AND SQUIRE WILLIAMS
vs.
THE UNITED STATES.

You will please to take notice that the claimants herein appea from the final order and decree made and entered herein on the sixteenth day of November, A. D. 1874, to the Supreme Court of the United States.

GREY & BRANDON,
Attorneys for Claimants.

To Walter Van Dyke, Esq., U. S. District Attorney, San Francisco.

139 STATE OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO. } ss.

Cyril V. Grey, being duly sworn, says he is an Attorney at law, and one of the Attorneys for the claimants in the above entitled suit, and that he served a copy of the foregoing notice of appeal on Walter Van Dyke, Esq., United States District Attorney, by delivering a copy thereof to said Walter Van Dyke in person, in the city and county of San Francisco, this 19th day of November, A. D. 1874.

CYRIL V. GREY.

Subscribed and sworn to at San Francisco, this 19th day of November, 1874, before me,

ROB'T CROCKETT,
U. S. Commissioner.

(Endorsed.)
Filed November 19th, A. D. 1874.
EDW'D B. COTTER, *Clerk.*
By A. D. GRIMWOOD, *Deputy Clerk.*

I, Edward B. Cotter, clerk of the district court of the United States for the district of California, do hereby certify that the foregoing forty-eight printed pages, numbered from one to forty-eight both inclusive, contain a true, full, and correct copy of all the proceedings, orders, pleadings, decrees, &c., in the case entitled The United States vs. James and Squire Williams, N. D., No. 345, as the same appear now on file, and remaining of record in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said court this twenty-third day of November, A. D. one thousand eight hundred and seventy-four.

[SEAL.] (Signed) EDWD. B. COTTER, *Clerk.*

140 At a stated term of the district court of the United States of America for the district of California, held at the court-room in the city of San Francisco, on Tuesday the twenty-third day of March, in the year of our Lord one thousand eight hundred and seventy-five.

Present, the honorable E. W. Hillyer, judge.

JAMES & SQUIRE WILLIAMS
vs.
THE UNITED STATES.

In this cause, on application of E. L. Goold, esq., of counsel for claimants, made in open court, it is hereby ordered that an appeal on behalf of the claimants from the final decision of this court, rendered on the sixteenth day of November, A. D. 1874, be, and the same is hereby, granted, & that a certified transcript of the pleadings, evidence, depositions, & proceedings in the said cause be sent to the Supreme Court without delay.

E. W. HILLYER,
Dist. Judge.

(Endorsed:) Filed March 23d, A. D. 1875. Edw'd B. Cotter, clerk.

141 UNITED STATES OF AMERICA, *ss:*

To the United States of America, and also to Walter Van Dyke, esq., U. S. district attorney for the district of California, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington, District of Columbia, on the second Monday of October next, pursuant to an appeal taken and filed in the clerk's office of district court of the United States for the district of California, on the 23d day of March, A. D. 1875, in a certain land-claim lately pending & determined in said court, wherein James & Squire Williams were claimants for the place called Arroyo de la Laguna, & are now the appellants, & the U. S. is appellee, to wit, case No. 42, which was appealed to the said district court from the decree of the U. S. board of land commissioners, pursuant to the provisions of the act of Congress approved March 3d, 1851, entitled "An act to ascertain and settle private land-claims in the State of California," to show cause, if any there be, why the judgment & decree of said district court so appealed from, rejecting the claim of the
142 claimants, should not be corrected & speedy justice done to the parties in that behalf.

Witness the honorable M. R. Waite, Chief-Justice of the United States.

E. W. HILLYER,
Dist. Judge.

SAN FRANCISCO, *March 23d*, 1875.

(Endorsed:) Filed March 23d, 1875. Edw'd B. Cotter, clerk.

Service acknowledged this 23d day of March, 1875.
WALTER VAN DYKE,
U. S. Atty.

I, Edward B. Cotter, clerk of the district court of the United States for the district of California, do hereby certify that the foregoing fifty-one (51) printed & written pages, numbered from one to fifty-one, both inclusive, contain a true, full, and correct copy of all the proceedings, orders, pleadings, decrees, &c., in the case entitled "The United States vs. James and Squire Williams, No. 345, N. D.," as the same appear now on file and of record in my office.

143 In witness whereof I have hereunto set my hand and affixed the seal of said court, at San Francisco, this twenty-third day of March, A. D. one thousand eight hundred and seventy-five.

[SEAL.] EDWD. B. COTTER, *Clerk.*

Supreme Court of the United States.

JAMES AND SQUIRE WILLIAMS, APPELLANTS,

vs.

THE UNITED STATES, APPELLEES,

Claiming the place called "Arroyo de la Laguna."

Appeal from the District Court of the United States, District of California.

BRIEF FOR APPELLANTS.

EDMOND L. GOULD,
Counsel.

JUDD & DETWEILER, PRINTERS.

Supreme Court of the United States.

JAMES AND SQUIRE WILLIAMS, APPELLANTS,

vs.

THE UNITED STATES, APPELLEES,

Claiming the place called "Arroyo de la Laguna."

Appeal from the District Court of the United States, District of California.

BRIEF FOR APPELLANTS.

The claim of the appellants having been confirmed by the late land commission, the case was taken to the district court in the ordinary manner, and, being there, the Government ordered further resistance to the claim to cease, and an order to that effect was accordingly entered. (Record, page 36.) The confirmees not having joined in this proceeding, and, the case being still in court, afterward amended their petition, asking for an increased quantity of land, (pp. 36, 37.) The demand was denied, and they appealed to this court.

We proceed first to show the character of the claim, and the purpose of the appellants.

They desire relief from the consequences of an erroneous translation of one of their title papers. The error refers to a single word, "sitio," and consists in calling it a *league*, when it means a *place* or *tract*.

The decree is ambiguous, as, although it confirms the grant, it yet makes a conjectural estimate of the quantity.

If our survey were to be settled by a court of justice, (as it should be,) the quantity granted would certainly be allowed, as the court would construe the decree by reference to the title papers. But no one can tell what the Land Department will do.

October 14, 1836.—The grantee, Gil Sanchez, asked the Governor for a piece of land, "el terreno," p. 15, "the land," p. 19. No quantity mentioned, but diseño referred to.

October 15, 1836.—The ayuntamiento is asked for information touching the qualifications of the candidate as a grantee of "el terreno," pp. 15, 16, "the land," p. 19.

November 10, 1836.—The committee on colonization reports in favor of his having "el terreno nombrado Arroyo de la Laguna," p. 16; "the land named Arroyo de la Laguna," pp. 19, 20.

November 13, 1836.—The matter is referred to the Mayor Domo for a report, pp. 16, 17, and translation, p. 20.

December 12, 1836.—He reports that respecting the "sitio," p. 17; translation "league," p. 20, which Sanchez asks, that it is "terreno valdio," "the land is vacant," p. 20. (The error occurs in this translation; *i. e.*, the report of Juan Gonzales.)

February 20, 1839.—Governor Alvarado makes the concession "del terreno nombrado Arroyo de la Laguna," p. 17, translated, "the land known by the name of Arroyo de la Laguna," pp. 20, 21.

May 12, 1840.—The Agricultural Commission reports concerning the concession "del terreno conocido con el

nombre Arroyo de la Laguna," p. 17, translation, "land known by the name Arroyo de la Laguna," p. 21, and in favor of approving the concession, which is done on the same day by the Departmental Assembly, pp. 17, 18, and translation, p. 21.

June 12, 1840.—The Departmental Assembly having approved the concession, Governor Alvarado orders the final title to issue "del terreno nombrado Arroyo de la Laguna," p. 18, translated "the land named," &c., p. 21.

The title papers consist of eight documents, exclusive of the diseño. In not one of them is the equivalent of the word "league" used.

And it is strange that the translator who rendered "sitio," "league," in the Gonzalez report, should, in the report of the approval of the Departmental Assembly, have correctly rendered "sitio Arroyo de la Laguna," page 18, "the place called Arroyo de la Laguna," p. 21.

See correct translation of the word, testimony of Hopkins, (p. 44.)

The claim, then, is of the most meritorious character. A genuine grant, confirmed by the Departmental Assembly, and, according to Hopkins, keeper of the Spanish archives, numbered on Jimeno's index, (p. 44,) it is certainly entitled to the most favorable consideration of this court.

OBJECTIONS BY THE GOVERNMENT, ANSWERED.

There has been no stipulation to dismiss the appeal signed by the confirmees.

The signature of James Williams alone, was obtained, p. 35. But he is only one of the confirmees. The others are Isaac Williams, John S. Williams, James Williams

Miller, and Smith, four in number. See amended petition, p. 4, and decree of confirmation, p. 33. The amended petition in the Land Commission, having been filed before the hearing, there, of course, the decree was passed in favor of all those named in the amendment.

There are, therefore, four persons whose signatures were indispensable to the execution of a stipulation.

Besides this consideration, the signature of James Williams binds nobody. He had an attorney of record.

"While there is an attorney of record, no stipulation as "to the conduct or disposal of the action should be enter- "tained by the court unless the same is signed or assented "to by such attorney." * * * * *

"So long as he remains attorney of record, the court can- "not recognize any other as having the management of the "case,"

Board of Comm. *v.* Younger, 29 Cal., 149.

No *laches* can be imputed to a litigant by his adversary, so as to affect the merits of their controversy. Either party may, at any time, move to speed the cause. In this case the immediate parties died, and their successors, the minor heirs, reached their majority, five of them, within the last five, four, and three years, pp. 38, 39, 40.

It is suggested that the order dismissing the Government appeal obstructs all further proceedings.

But that order does not import a dismissal of our suit. It shows only, that the Government is content to resist us no further. The proceeding would have bound us if based on our consent and concurrence, according to the established practice, pp. 40, 41.

It is suggested, too, that the proceeding is in the nature of a petition to re-hear, and that the court has no power to grant it.

But we do not ask for a re-hearing. A *hearing* is all we ask.

It is the settled rule that the proceeding in the district court is an original proceeding.

Ritchie's Case, 17 How., 334.

Grisar *vs.* McDowell, 6 Wall., 363.

The controversy *begins*, then, in the district court. The claimant there inaugurates his claim. The United States resists. Both parties being there, both must stay there until the rights of *both* be considered and passed upon. The rights of these claimants were never considered by the district court until their petition for a decree for all their land was rejected by that court. The Government could, at any time, have called for a hearing. After the commencement of the suit, and before any act was done affecting the claimants, their amended petition was filed, suggesting the error in the translation of their title papers, and asking for their full quantity of land. And when that petition was denied, their rights were passed upon for the first time.

The Iturbide case, 21 How., 291, is mentioned. But no special reliance seems to be placed upon it.

That case is no authority on this occasion. The colossal character of that claim deprives the case of all authority as a precedent. In the opinion, its magnitude is mentioned, apparently as a controlling fact. For, as the question mooted was one of practice only, ordinarily the amount in dispute could not be a matter of moment. The claimant demanded over seventeen hundred and seventy-five thou-

sand acres of land, an area more than a quarter larger than the State of Delaware, and twice the size of Rhode Island!

It may well be doubted if the statute creating the Land Commission was designed to cover a claim like that. Certainly the debates would not create the impression that it was so designed. Senator Benton spoke of the lands as owned by men "during three generations." And the California senator, Gwin, the author of the bill, in endeavoring to provide for titles by prescription, said, "My object is to protect the old inhabitant when he has a valid and equitable claim, under which he has held and cultivated for ten years.

Vol. 23 Cong. Globe, 1850–'51, p. 375.

The complexion of the debates shows that the statute was created for the protection of a pastoral people—rancheros who held their possessions by grants from the Spanish King, or under the colonization laws of Mexico. The Iturbide grant, on the other hand, had a semi-political origin. It may be said to have been born of a revolution. It was a mere *float*. First it was to go to Texas. Then, to New Mexico or Upper or Lower California. No person in authority ever aided in its location. It had no authenticated boundaries. Nothing showed that the land selected by the Iturbide heirs had not been segregated from the public domain. In fine, it was such a claim as no court could recognize. For there was no cultivation or possession, and *that* is the controlling equity in these California land cases. And nothing short of a special act of Congress could impart to it any validity.

"When statutes are made, there are some things which "are exempted and *fore-prized* out of the provisions therefor, "by the law of reason, though not expressly mentioned."

Potter's Dwarris on Statutes, p. 123.

Unlike this case, the Iturbide case *never was in the district*

court. That is the true interpretation of the decision. Nothing was done to move it out of the land commission. If it had ever reached that court, either party could have moved in it as advised; for the jurisdiction having attached, either would have been at liberty to proceed. No matter which party took it there, it being there, it must have followed that a suit had been *instituted.* And, plainly, after a suit has been instituted according to law, it must be disposed of according to law. In the absence of a cross-bill or counter-claim, the plaintiff may put an end to the proceedings by withdrawing, but the defendant never can.

In this case, the law officers of the Government bear negative testimony to the uncommon merit of the claim. In their brief they say they make no "controversy" as to the merits. Of course, a mere perusal of the record compelled this candid avowal. We indulged the hope that something more might be done for the claimants, pursuant to Fossat's case, (21 How., pp. 450–51,) where this court says:

"The United States did not appear in the courts as a con-
"tentious litigant, but as a great nation, acknowledging their
"obligations to recognize as valid, every authentic title, and
"soliciting exact information to direct their Executive Gov-
"ernment to comply with that obligation."

And, at the very next term of the court, the spirit of this language was carried out in Alviso's case, (23 How., p. 318,) where a claim was confirmed to a ranchero *who never had a grant!* It was deemed sufficient that a petition had been presented, that a subordinate had given permission to occupy, and that that occupation was continuous from 1840. In that very year, the grantee in this case obtained his grant, and went into immediate possession. (Pp. 5, 21.) The land is in the same county, and is about the same in quantity. If possession from 1840 be such an equity as entitles to a confirmation without a grant, with what a favorable

eye should be regarded such an equity, fortified by a genuine grant, confirmed by the Departmental Assembly, and found on Jimeno's index?

To conclude: Not a foot of this land has ever belonged to the United States. All within the boundaries described was private property at the date of the change of flags. If, in consequence of a verbal error, any portion of this private property shall be taken from its owners, and cast into the mass of the public domain, the Government must cease to disclaim the title of a "contentious litigant" in executing a treaty which never would have been made without the solemn assurance of protection to private property.

The claimants ask that the decree be amended, striking out the words of limitation, and confirming the claim by the description in the grant and diseño. They will be content should the confirmation restrict them to two and a half leagues, should that quantity be found within the boundaries.

EDMOND L. GOULD,
Counsel.

WASHINGTON, D. C., *Feb.* 6, 1875.

In the Supreme Court of the United States.

JAMES AND SQUIRE WILLIAMS
vs.
THE UNITED STATES.
} No. —.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

Brief for the United States.

In the Supreme Court of the United States.

JAMES AND SQUIRE WILLIAMS
vs.
THE UNITED STATES.
} No. —.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

Brief for the United States.

The case is, that on the 17th of February, 1852, the appellants filed a petition before the Commissioners to settle private land-claims in California asking for the place called Arroyo de la Laguna, in the course of which such proceedings were had that, upon the 10th of July, 1855, a decree of confirmation was given for the land so named, "of the extent of one square league," provided so much were found within certain boundaries, but if not, then of the land within such boundaries. (Record, p. 33.)

From this decree notice of appeal by the Attorney-General of the United States was filed on the 11th of February, 1856. Upon the 6th of October, 1856, another notice was given by the Attorney-General that such appeal would not be prosecuted; and accordingly, on the 24th of December, 1856, a stipulation was filed, signed by the district attorney and *James Williams*, dismissing this appeal, and giving leave to the claimants to proceed under the decree of the commissioners, as under a *final decree.* An order was made accordingly by the District court, (pp. 35 and 36.)

Upon the 27th of January, 1872, a petition was filed

in the District court for California, asking that a mistake in the former decree, occasioned by translating the Mexican word "sitio" "league" instead of "place," might be corrected, so as to give to the petitioners whatever land, even if more than a square league in quantity, might be found within the aforesaid boundaries.

This petition was *denied* on the 16th of November, 1874, and the petitioners appealed.

We make no controversy upon this record as to the merits of the claim, but feel bound to submit that it cannot now be corrected, at least in the way herein resorted to.

The appeal was *regularly* dismissed by the District court in December, 1856, or, if dismissed *irregularly*, the action of the court had by May, 1872, been acquiesced in so long as to be binding upon all parties.

After December, 1856, the case remained no longer in the District court, and consequently that court had no jurisdiction of the petition to amend.

The authorities cited by the appellants (Ritchie's case, 17 How., 525, and Grisar's case, 6 Wall., 363) do not imply that the appellant cannot, at his own will, dismiss the appeal, but only that so long as the case remains in the District court, upon such appeal, it is to be treated as a proceeding *de novo*. This rule, viz, that upon appeal the *whole case* is before the court of appeal, is not an unusual incident to appeals, but does not affect the right of the appellant, at a certain stage thereof, to have it dismissed.

But whether this be true or not, after an acquiescence of sixteen years, the dismissal must be taken as ordered by consent of all parties; in fact the stipulation is signed by one of the appellees. [We refer the court hereupon to the deposition of Mr. Blanding, who, in 1856, was United States district attorney, and since then is of counsel for the petitioners, (pp. 46 and 47.)]

The present proceeding is, in effect, a petition to *rehear* because of a failure by the petitioners in their proofs.

We submit, in this connection, that as regards the statutory jurisdiction over private land-claims in Cali-

fornia, the District court had no power to *rehear;* (6 Pet., 485, note) *or*, no power to rehear after the lapse of the time allowed for an appeal, (*five* years, Castro's case, 3 Wall. 46,) *or*, at all events, no power, after such lapse, to rehear on account of *laches* by the petitioners as regards their proofs.

Again, supposing the order of December, 1856, in the district court, dismissing the appeal, to be either *erroneous*, or *irregular*, it remains, nevertheless, in the way of the petitioners. Their first step should have been to have it reversed, and so put out of their way. It is not a mere *nullity.* In the present state of the record it seems to obstruct all further proceedings in the District court, and, therefore, in this court.

We also refer to the act of 1851, chapter 41, constituting the commission over private land claims in California, (9 Stat., 631;) to that of 1852, chapter 108, section 12, (10 Stat., 99,) and to Yturbide's case, (22 How., 290.)

GEO. H. WILLIAMS,
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S. F. PHILLIPS,
Solicitor-General.